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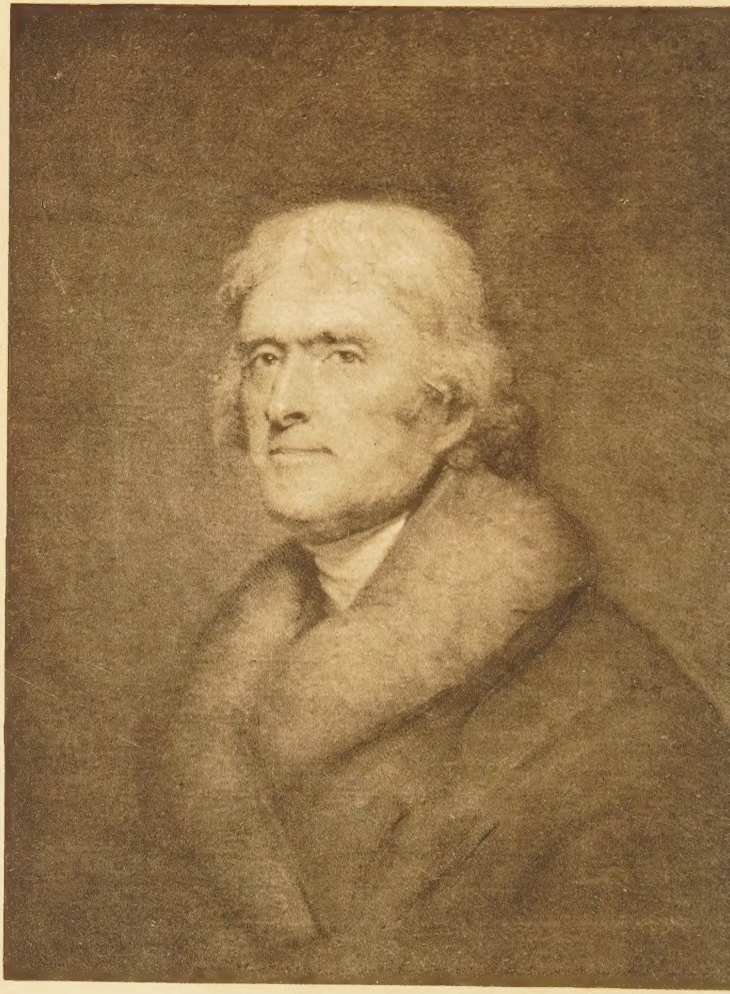
The Writings of Thomas Jefferson

THE THOMAS JEFFERSON MEMORIAL ASSOCIATION



THE WRITINGS OF
THOMAS JEFFERSON

Library Edition

CONTAINING HIS

AUTOBIOGRAPHY, NOTES ON VIRGINIA, PARLIAMENTARY MANUAL, OFFICIAL PAPERS, MESSAGES AND ADDRESSES, AND OTHER WRITINGS, OFFICIAL AND PRIVATE, NOW COLLECTED AND

PUBLISHED IN THEIR ENTIRETY FOR THE FIRST TIME

INCLUDING

ALL OF THE ORIGINAL MANUSCRIPTS, DEPOSITED IN THE DEPARTMENT OF STATE AND PUBLISHED IN 1853 BY ORDER OF THE JOINT COMMITTEE OF CONGRESS

WITH NUMEROUS ILLUSTRATIONS

AND

A COMPREHENSIVE ANALYTICAL INDEX

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VOL. III.

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THE THOMAS JEFFERSON MEMORIAL ASSOCIATION
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THE LOUISIANA PURCHASE.

The Louisiana Purchase was, by common consent, the supreme act of the administration of Thomas Jefferson as President, though he makes no reference to it in giving the features of his career which he chose to have perpetuated in his epitaph. For that commemoration he chose principles rather than acts. There have been others who have framed or founded universities. There have been others who have framed statutes of religious liberty. But there was only one Louisiana Purchase.

I venture to think that there are three great master facts upon which the enduring fame of Jefferson will rest: First, he was the author of the Declaration of Independence; second, he was the founder and leader of a great party, of a school of political thought which, under varying names, has divided the republic from the beginning to the present time; third, he made the Louisiana Purchase. In its historical importance this great act ranks with half a dozen of the most momentous and epochal events in our national annals, with his own Declaration of Independence, with the adoption of the Constitution, with the molding of national power through constitutional construction by Chief Justice

Marshall, with the abolition of slavery, with the overthrow of secession and the complete triumph of an indissoluble union, and with the Spanish war and all its far-reaching consequences. The Louisiana Purchase nearly doubled the boundaries of the republic. It added to her territory a little less than a million square miles of territory. It broadened the domain of our country by an extension which was larger in itself than Great Britain, France, Germany, Spain, Portugal and Italy combined. It gave us what has become one of the most fertile and opulent sections of the nation and the home of nearly fifteen millions of happy and contented Americans. It was an indispensable preliminary to the later acquisition of that vast domain which extends from the Gulf to Vancouver, embracing Texas, California, Oregon and Washington, and which added more than a million square miles to our territory, now the home of six millions more of thrifty and happy Americans who live and move and have their being within its domain. It was the first great expansion of the republic, and the manifesto of its continued extension with the advance of the world.

The honor which belongs to Jefferson is not simply that of being President when the purchase was made. He was the father of the vital policy which brought that splendid culmination. The crucial necessity which led up to the acquisition of Louisiana was the free navigation of the Mississippi River. The great Father of Waters was our western boundary and the

territory which rested on its hither shore demanded an unchecked outlet to the sea. Jefferson was the first of our statesmen to appreciate the importance of free and untrammelled communication from the Ohio to the Gulf. Spain held New Orleans and commanded the mouth of the Mississippi. If she was to remain there she must grant unrestricted privileges. As early as 1790, when Jefferson was Secretary of State under Washington, he demanded unhampered transit. He saw as no other man so clearly saw at that time, the tremendous significance of that question. Through his efforts the free use of the port of New Orleans was granted. After that all went well until a few years later the right of deposit on the wharves and in the warehouses at New Orleans was withdrawn. Then the West was instantly aflame and it became apparent that there could be no sure and lasting peace until the control of the Mississippi was so fixed that the United States would not be dependent upon any foreign power for its absolutely free navigation.

Meanwhile Spain retroceded Louisiana to France and Jefferson became President. He had, all through his previous career, been in affiliation with France and his antipathy was England; but so strong was his conviction that there was an inevitable antagonism between the United States and any alien power holding New Orleans that he looked to an alliance with England, unless that foreign power could be removed. He instructed Livingston, already

in France, to negotiate for the purchase of New Orleans and he sent Monroe to Paris to help him. Propitious circumstances unexpectedly served his end. The peace of Amiens was broken and Napoleon faced a gigantic conflict with England and with Europe. He wanted means and he knew that in such a conflict he could not hold Louisiana. He proposed to sell the entire territory, and so Jefferson, who had set out only to purchase New Orleans and the territory called West Florida, found himself suddenly the master of that magnificent realm beyond the Mississippi which enlarged our republic so immensely, which carried our flag over the great domain extending from the Gulf to Canada, a domain almost equal in extent to the original thirteen States of the Union.

It has often been urged that in this great act, the greatest act of our history between the adoption of the Constitution and the Civil War, Jefferson was inconsistent with his principles and his professions. He was the leader of the strict constructionists and this act was outside of the strict letter of the Constitution. But that charge of inconsistency can be made with equal force against every great party and almost every conspicuous statesman in our history. Webster was a free trader, substantially, and fought Calhoun as a protectionist when the interests of Massachusetts were commercial, and he was a protectionist when Massachusetts wanted to foster manufactures. Calhoun was a protectionist

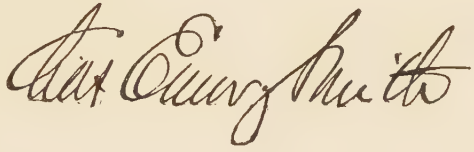
and fought Webster as a free trader before the South had developed its great cotton growth, and he was a free trader after that development when the South wanted to exchange raw cotton for cotton products. Madison believed that the United States Bank was unconstitutional and refused in 1811 to recharter it; but in 1816 Madison signed its second charter. In 1794 the Federalists passed an embargo and the Republicans denounced it as unconstitutional; and in 1807 the Republicans passed an embargo and the Federalists denounced it as unconstitutional. The Republicans affirmed the right of nullification against the alien and sedition acts of 1798 and the Federalists denounced it; but a few years later the Federalists asserted that right of nullification against the force act of 1809 while the other party denounced it. Virginia recanted and repudiated the famous Virginia resolutions at the very time that Pennsylvania and Ohio shifted to the other side and affirmed the same doctrine. If it be a question of inconsistencies, the chapter is absolutely unlimited.

It would be, indeed, easy to find inconsistencies between the principles of the Declaration of Independence and the practice of the Louisiana Purchase. What of it? When it comes to an issue between an abstract doctrine and vital practical statesmanship what masterful man, with great destinies in his hand, does not turn from the theoretical dogma to the living and commanding act? What true statesman permits a general and vague conception to paralyze a dis-

tinct, definite and unmistakable good? As a political philosopher Jefferson taught great doctrines. As President of the United States he met the direct and immediate responsibilities. He did not violate the Constitution—whatever was said at the time, we know it now; but in a great public emergency he departed from his general theory of interpretation, and in doing so he did an act of transcendent statesmanship and he achieved an incalculable advantage for the republic.

I have not been trained in the Jefferson school of thought, belonging to the opposing school. But I recognize and honor the incalculable services which Jefferson rendered to the country, not merely in its first great expansion but in the influence of his whole administration. The Constitution had not then gained any traditional sanctity. There were thousands of honest men who believed that it was dangerous to the liberties of the people. They felt that in the hands of Washington, of Hamilton and of Adams it had been directed along imperialistic lines, and that it was hostile to the spirit of the Revolution. The immeasurable value of Jefferson's incomparable service was that, as the leader of the opposing host, he came into authority, calmed the disquietude, exercised the same rights and powers and met the same high responsibility in the same statesmanlike way, and he dissipated any lingering fear that the Constitution and government of our republic involved any peril to the freedom of the people.

And so, as a devoted admirer of his great political rival, I honor, I salute Jefferson for his immortal work, and I join with the Thomas Jefferson Memorial Association in urging a national memorial to one of the most illustrious among the founders of the Republic.



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REPORTS AND OPINIONS

WHILE

SECRETARY OF STATE.

INTRODUCTORY NOTES.

Under the head of "Reports and Opinions while Secretary of State" are included Jefferson's Reports to Congress; his Reports to President Washington; and his Cabinet Opinions. It seems to have been the practice of Washington to take written opinions of his Secretaries upon important points arising during his administration, and the opinions of Jefferson, here published, were given in reply to questions propounded and points submitted to him by the President, in conformity with this practice. These opinions relate to a great variety of matters connected with the early history of our government, and the principles of interpretation to be applied to the Federal Constitution, and will be found both interesting and valuable.

Some of these Reports (from page 286 to 310), including the Report on Unclaimed Lands, the Report on Vermont Nominations, the Report of Decree Rendered by the National Assembly of France, etc., were not published in the Congressional edition of 1853.

Jefferson's appointment was brought about in the following manner. In August, 1789, while filling the position of American Minister Plenipotentiary to France, he obtained leave of absence and returned to the United States. He arrived at Norfolk on November 23d, and on his way to Monticello received from President Washington a letter offering him the appointment of Secretary of State, at the organization of the Federal Government under the Constitution, which had then been adopted. (See Autobiography, Vol. I, page 160.) His inclinations were to return to France, to continue representing the United States at that court, as the President gave him the option of either position, but he finally concluded to accede to the wishes of Washington that he accept a seat in his cabinet.

His Reports and Opinions on the Currency; on Weights and Measures; on the Fisheries; on Commercial Restrictions; on Treaties with Foreign Governments; and numerous other subjects, all give ample proof of his ability as a statesman. In 1790 Jefferson accompanied Washington on a visit to Rhode Island, after that State had accepted the Federal Constitution. In 1791, being called on by the President for his Opinion on the Act passed by Congress establishing a National Bank, he made a written communication, objecting to such

an institution as unconstitutional. The bill, however, was approved by President Washington. While holding office as Secretary of State, Jefferson disapproved of many of the measures of Washington's administration, particularly of those measures which originated with the Secretary of the Treasury, Alexander Hamilton. Between Hamilton and Jefferson there were irreconcilable differences of opinion on political matters, which caused constant bickerings in Washington's first cabinet. Hamilton was the head of the Federal party and the opposition to the Federalists assumed an organized form under the auspices of Jefferson. By Jefferson's advice, the opposition party, which had been called anti-federalist, claimed the name of Republicans, while their Federal opponents called them Democrats. Jefferson was an advocate of State sovereignty and of decentralization. He was strongly opposed to the leading features of the British Constitution, and in cordial sympathy with the new school of politics which had recently begun to be felt in the government of France. His five years' residence in France had greatly strengthened him in these views and they more or less affected his treatment of all questions that came under him as a Cabinet Minister. Hamilton's great fear, on the other hand, was that the central government under the new Constitution would be too weak, and he favored all measures that tended to exalt and strengthen the Executive, and to bring the government more in harmony with that of England.

The most perplexing questions which occupied Jefferson's attention as Secretary of State grew out of the war declared by France in 1793 against Holland and Great Britain. What was the natural policy and what should be insisted upon as the natural rights of the United States? Upon this question both parties put forth their whole strength. The Republicans, under Jefferson's lead, mostly sympathized with the French, and advocated that privateers be fitted out in American ports to cruise against British vessels. This policy was opposed by the Federalists, who advocated peace with all and entangling alliances with none. Jefferson advocated the propriety of receiving a diplomatic representative from the French Republic. His advice prevailed, and Genet was promptly sent as Minister. Genet proceeded to fit out privateers, and empower French consuls in the United States to organize courts of admiralty to condemn prizes. This led to heated discussions in the cabinet, and finally to the recall of Genet. Partly from discontent with a position in which he did not feel that he possessed the absolute confidence of the President, and partly because of the embarrassed condition of his private affairs, due mainly to the ravages of war, Jefferson resigned his seat in the cabinet, December

31, 1793, and retired to Monticello. He resigned office at a fortunate time for his reputation. His correspondence with George Hammond, the English Plenipotentiary, and Edmond Genet, the French Plenipotentiary, had just been published in a formidable pamphlet, and Jefferson's letters were so moderate, conciliatory and just, that they won even the approval of the Federalists. John Marshall, Chief Justice of the United States, and a confirmed Federalist, writes in his "Life of Washington" that this correspondence lessened the hostility of Jefferson's opponents, without diminishing the attachment of his friends.

JEFFERSON'S WORKS.

REPORTS AND OPINIONS
WHILE SECRETARY OF STATE.

Report on the methods for obtaining Fresh Water from Salt.

The Secretary of State, to whom was referred by the House of Representatives of the United States, the petition of Jacob Isaacs of Newport in Rhode Island, has examined into the truth and importance of the allegations therein set forth, and makes thereon the following report:

The petitioner sets forth, that by various experiments, with considerable labor and expense, he has discovered a method of converting salt-water into fresh, in the proportion of 8 parts out of 10, by a process so simple that it may be performed on board of vessels at sea by the common iron caboose, with small alterations, by the same fire, and in the same time, which is used for cooking the ship's provisions, and offers to convey to the government of the United States a faithful account of his art or secret,

to be used by, or within the United States, on their giving to him a reward suitable to the importance of the discovery, and in the opinion of government, adequate to his expenses and the time he has devoted to the bringing it into effect.

In order to ascertain the merit of the petitioner's discovery, it becomes necessary to examine the advances already made in the art of converting salt-water into fresh.

Lord Bacon, to whom the world is indebted for the first germs of so many branches of science, had observed, that with a heat sufficient for distillation, salt will not rise in vapor, and that salt-water distilled is fresh; and it would seem, that all mankind might have observed that the earth is supplied with fresh water chiefly by exhalation from the sea, which is, in fact, an insensible distillation effected by the heat of the sun; yet this, although the most obvious, was not the first idea in the essays for converting salt-water into fresh; filtration was tried in vain, and congelation could be resorted to only in the coldest regions and seasons. In all the earlier trials by distillation, some mixture was thought necessary to aid the operation by a partial precipitation of the salt, and other foreign matters contained in sea-water. Of this kind, were the methods of Sir Richard Hawkins in the sixteenth century, of Glauber, Hauton, and Lister, in the seventeenth, and of Hales, Appleby, Butler, Chapman, Hoffman, and Dore, in the eighteenth; nor was there anything in

these methods worthy noting on the present occasion, except the very simple still contrived extempore by Captain Chapman, and made from such materials as are to be found on board every ship, great or small; this was a common pot, with a wooded lid of the usual form; in the centre of which a hole was bored to receive perpendicularly, a short wooden tube made with an inch-and-a-half auger, which perpendicular tube received at its top, and at an acute angle, another tube of wood also, which descended until it joined a third of pewter made by rolling up a dish and passing it obliquely through a cask of cold water; with this simple machine he obtained two quarts of fresh water an hour, and observed that the expense of fuel would be very trifling, if the still was contrived to stand on the fire along with the ship's boiler.

In 1762, Doctor Lind, proposing to make experiment of several different mixtures, first distilled rain-water, which he supposed would be the purest, and then sea-water, without any mixture, which he expected would be the least pure, in order to arrange between these two supposed extremes, the degree of merit of the several ingredients he meant to try; "to his great surprise," as he confesses, the sea-water distilled without any mixture, was as pure as the rain-water; he pursued the discovery and established the fact, that a pure and potable fresh water may be obtained from salt-water by simple distillation, without the aid of any mixture for fining or precipi-

tating its foreign contents. In 1767, he proposed an extempore still, which, in fact, was Chapman's, only substituting a gun-barrel instead of Chapman's pewter tube, and the hand-pump of the ship to be cut in two obliquely and joined again at an acute angle, instead of Chapman's wooden tubes bored expressly; or instead of the wooden lid and upright tube, he proposed a tea-kettle (without its lid or handle) to be turned bottom upwards over the mouth of the pot by way of still-head, and a wooden tube leading from the spout to a gun-barrel passing through a cask of water, the whole luted with equal parts of chalk and meal moistened with salt-water. With this apparatus of a pot, tea-kettle, and gun-barrel, the Dolphin, a twenty-gun ship, in her voyage around the world in 1768, from 56 gallons of sea-water and with 9 lbs. of wood and 69 lbs. of pit-coal made 42 gallons of good fresh water, at the rate of 8 gallons an hour. The Dorsetshire, in her passage from Gibraltar to Mahon in 1769, made 19 quarts of pure water in four hours with 10 lbs. of wood, and the Slambal in 1773, between Bombay and Bengal, with the hand-pump, gun-barrel, and a pot of 6 gallons of sea-water, made ten quarts of fresh water in three hours.

In 1771, Dr. Irvin putting together Lind's idea of distilling without a mixture, Chapman's still, and Dr. Franklin's method of cooling by evaporation, obtained a premium of five thousand pounds from the British parliament. He wet his tube constantly with a mop instead of passing it through a cask of

water; he enlarged its bore also, in order to give a free passage to the vapor, and thereby increase its quantity by lessening the resistance or pressure on the evaporating surface. This last improvement was his own; it doubtless contributed to the success of his process; and we may suppose the enlargement of the tube to be useful to that point at which the central parts of the vapor passing through it would begin to escape condensation. Lord Mulgrave used his method in his voyage towards the north pole in 1773, making from 34 to 40 gallons of fresh water a day, without any great addition of fuel, as he says.

M. de Bougainville, in his voyage round the world, used very successfully a still which had been contrived in 1763 by Poyssonier to guard against the water being thrown over from the boiler into the pipe, by the agitation of the ship. In this, one singularity was, that the furnace or fire-box was in the middle of the boiler, so that the water surrounded it in contact. This still, however, was expensive, and occupied much room.

Such were the advances already made in the art of obtaining fresh from salt-water, when Mr. Isaacs, the petitioner, suggested his discovery. As the merit of this could be ascertained by experiment only, the Secretary of State asked the favor of Mr. Rittenhouse, President of the American Philosophical Society, of Dr. Wistar, professor of chemistry in the college at Philadelphia, and Dr. Hutchinson, professor of chemistry in the University of Pennsyl-

vania, to be present at the experiments. Mr. Isaacs fixed the pot, a small caboose, with a tin cap and straight tube of tin passing obliquely through a cask of cold water; he made use of a mixture, the composition of which he did not explain, and from 24 pints of sea-water, taken up about three miles out of the Capes of Delaware, at flood-tide, he distilled 22 pints of fresh water in four hours with 20 lbs. of seasoned pine, which was a little wetted by having lain in the rain.

In a second experiment of the 21st of March, performed in a furnace, and five-gallon still at the college, from 32 pints of sea-water he drew 31 pints of fresh water in 7 hours and 24 minutes, with 51 lbs. of hickory, which had been cut about six months. In order to decide whether Mr. Isaacs' mixture contributed in any and what degree to the success of the operation, it was thought proper to repeat his experiment under the same circumstances exactly, except the omission of the mixture. Accordingly, on the next day, the same quantity of sea-water was put into the same still, the same furnace was used, and fuel from the same parcel; it yielded, as his had done, 31 pints fresh water in 11 minutes more of time, and with 10 lbs. less of wood.

On the 24th of March, Mr. Isaacs performed a third experiment. For this, a common iron pot of three and a half gallons was fixed in brick work, and the flue from the hearth wound once around this pot spirally, and then passed off up a chimney.

The cap was of tin, and a straight tin tube of about two inches diameter passing obliquely through a barrel of water, served instead of a worm. From sixteen pints of sea-water he drew off fifteen pints of fresh water, in two hours fifty-five minutes, with 3 lbs. of dry hickory and 8 lbs. of seasoned pine. This experiment was also repeated the next day, with the same apparatus, and fuel from the same parcel; but without the mixture, sixteen pints of sea-water yielded in like manner fifteen pints of fresh in one minute more of time, and with ½ lb. less of wood On the whole, it was evident that Mr. Isaacs' mixture produced no advantage either in the process or result of the distillation.

The distilled water in all these instances, was found on experiment to be as pure as the best pump water of the city; its taste, indeed, was not as agreeable, but it was not such as to produce any disgust. In fact, we drink, in common life, in many places, and under many circumstances, and almost always at sea, a worse tasting and probably a less wholesome water.

The obtaining fresh from salt-water was for ages considered as an important desideratum for the use of navigators. The process for doing this by simple distillation is so efficacious, the erecting an extempore still with such utensils as are found on board of every ship, is so practicable, as to authorize the assertion that this desideratum is satisfied to a very useful degree. But though this has been done for

upwards of thirty years, though its reality has been established by the actual experience of several vessels which have had recourse to it, yet neither the fact nor the process is known to the mass of seamen, to whom it would be the most useful, and for whom it was principally wanted. The Secretary of State is therefore of opinion that since the subject has now been brought under observation, it should be made the occasion of disseminating its knowledge generally and effectually among the seafaring citizens of the United States. The following is one of the many methods which might be proposed for doing this: Let the clearance for every vessel sailing from the ports of the United States be printed on a paper, in the back whereof shall be a printed account of the essays which have been made for obtaining fresh from salt-water, mentioning shortly those which have been unsuccessful, and more fully those which have succeeded, describing the methods which have been found to answer for constructing extempore stills of such implements as are generally on board of every vessel, with a recommendation in all cases where they shall have occasion to resort to this expedient for obtaining water, to publish the result of their trial in some gazette on their return to the United States, or to communicate it for publication to the office of the Secretary of State, in order that others may, by their success, be encouraged to make similar trials, and be benefited by any improvements or new ideas which may occur to them in practice.

Opinion on the proposition for establishing a Woollen Manufactory in Virginia.

The House of Delegates of Virginia seemed disposed to adventure £2,500 for the encouragement of this undertaking, but the Senate did not concur. By their returning to the subject, however, at a subsequent session, and wishing more specific propositions, it is probable they might be induced to concur, if they saw a certain provision that their money would not be paid for nothing. Some unsuccessful experiments heretofore may have suggested this caution.

Suppose the propositions brought into some such shape as this: The undertaker is to contribute £1,000, the State £2,500, viz.: the undertaker having laid out his £1,000 in the necessary implements to be brought from Europe, and these being landed in Virginia as a security that he will proceed, let the State pay for the first necessary purposes then to occur £1,000

Let it pay him a stipend of £100 a year for the first three years 300

Let it give him a bounty (suppose one-third) on every yard of woollen cloth equal to good plains, which he shall weave for five years, not exceeding £250 a year (20,000 yards) the four first years, and £200 the fifth 1,200

£2,500

To every workman whom he shall import, let them give, after he shall have worked in the manufactory five years, warrants for —— acres of land, and pay the expenses of survey, patents, &c. [This last article is to meet the proposition of the undertaker. I do not like it, because it tends to draw off the manufacturer from his trade. I should better like a premium to him on his continuance in it; as, for instance, that he should be free from State taxes as long as he should carry on his trade.]

The President's intervention seems necessary till the contracts shall be concluded. It is presumed he would not like to be embarrassed afterwards with the details of superintendence. Suppose, in his answer to the Governor of Virginia, he should say that the undertaker being in Europe, more specific propositions cannot be obtained from him in time to be laid before this assembly; that in order to secure to the State the benefits of the establishment, and yet guard them against an unproductive grant of money, he thinks some plan like the preceding one might be proposed to the undertaker.

That as it is not known whether he would accept it exactly in that form, it might disappoint the views of the State were they to prescribe that or any other form rigorously, consequently that a discretionary power must be given to a certain extent.

That he would willingly coöperate with their executive in effecting the contract, and certainly would not conclude it on any terms worse for the State

than those before explained, and that the contracts being once concluded, his distance and other occupations would oblige him to leave the execution open to the Executive of the State.

The Report on Copper Coinage, communicated to the House of Representatives, April 15th, 1790.

April 14, 1790.

The Secretary of State, to whom was referred, by the House of Representatives, the letter of John H. Mitchell, reciting certain proposals for supplying the United States with copper coinage, has had the same under consideration, according to instructions, and begs leave to report thereon as follows:

The person who wishes to undertake the supply of a copper coinage, sets forth, that the superiority of his apparatus and process for coining, enables him to furnish a coinage better and cheaper than can be done by any country or person whatever; that his dies are engraved by the first artist in that line in Europe; that his apparatus for striking the edge at the same blow with the faces, is new, and singularly ingenious; that he coins by a press on a new principle, and worked by a fire-engine, more regularly than can be done by hand; that he will deliver any quantity of coin, of any size and device, of pure, unalloyed copper, wrapped in paper and packed in casks, ready for shipping, for fourteen pence sterling the pound.

The Secretary of State has before been apprized,

States shall be disposed to have a coin of their own; it will be desirable to aim at this kind of perfection. That this cannot be better effected, than by availing themselves, if possible, of the services of the undertaker, and of this artist, whose excellent methods and machines are said to have abridged, as well as perfected, the operations of coinage. These operations, however, and their expense, being new, and unknown here, he is unable to say whether the price proposed be reasonable or not. He is also uncertain whether, instead of the larger copper coin, the Legislature might not prefer a lighter one of billon, or mixed metal, as is practised, with convenience, by several other nations—a specimen of which kind of coinage is submitted to their inspection.

But the propositions under consideration suppose that the work is to be carried on in a foreign country, and that the implements are to remain the property of the undertaker; which conditions, in his opinion, render them inadmissible, for these reasons:

Coinage is peculiarly an attribute of sovereignty. To transfer its exercise into another country, is to submit it to another sovereign.

Its transportation across the ocean, besides the ordinary dangers of the sea, would expose it to acts of piracy, by the crews to whom it would be confided, as well as by others apprized of its passage.

In time of war, it would offer to the enterprises of an enemy, what have been emphatically called the sinews of war.

If the war were with the nation within whose territory the coinage is, the first act of war, or reprisal, might be to arrest this operation, with the implements and materials coined and uncoined, to be used at their discretion.

The reputation and principles of the present undertaker are safeguards against the abuses of a coinage, carried on in a foreign country, where no checks could be provided by the proper sovereign, no regulations established, no police, no guard exercised; in short, none of the numerous cautions hitherto thought essential at every mint; but in hands less entitled to confidence, these will become dangers. We may be secured, indeed, by proper experiments as to the purity of the coin delivered us according to contract, but we cannot be secured against that which, though less pure, shall be struck in the genuine die, and protected against the vigilance of Government, till it shall have entered into circulation.

We lose the opportunity of calling in and re-coining the clipped money in circulation, or we double our risk by a double transportation.

We lose, in like manner, the resource of coining up our household plate in the instant of great distress.

We lose the means of forming artists to continue the works, when the common accidents of mortality shall have deprived us of those who began them.

In fine, the carrying on a coinage in a foreign country, as far as the Secretary knows, is without example; and general example is weighty authority.

He is, therefore, of opinion, on the whole, that a mint, whenever established, should be established at home; that the superiority, the merit, and means of the undertaker, will suggest him as the proper person to be engaged in the establishment and conduct of a mint, on a scale which, relinquishing nothing in the perfection of the coin, shall be duly proportioned to our purposes.

And, in the meanwhile, he is of opinion the present proposals should be declined.

Opinion on the question whether the Senate has the right to negative the grade of persons appointed by the Executive to fill Foreign Missions.

New York, April 24, 1790.

The constitution having declared that the President shall *nominate* and, by and with the advice and consent of the Senate, shall *appoint* ambassadors, other public ministers, and consuls, the President desired my opinion whether the Senate has a right to negative the *grade* he may think it expedient to use in a foreign mission as well as the *person* to be appointed.

I think the Senate has no right to negative the *grade*.

The constitution has divided the powers of government into three branches, Legislative, Executive and Judiciary, lodging each with a distinct magis-

tracy. The Legislative it has given completely to the Senate and House of Representatives. It has declared that the Executive powers shall be vested in the President, submitting special articles of it to a negative by the Senate, and it has vested the Judiciary power in the courts of justice, with certain exceptions also in favor of the Senate.

The transaction of business with foreign nations is Executive altogether. It belongs, then, to the head of that department, except as to such portions of it as are specially submitted to the Senate. Exceptions are to be construed strictly.

The Constitution itself indeed has taken care to circumscribe this one within very strict limits; for it gives the *nomination* of the foreign agents to the President, the *appointments* to him and the Senate jointly, and the *commissioning* to the President.

This analysis calls our attention the strict import of each term. To *nominate* must be to *propose*. *Appointment* seems that act of the will which constitutes or makes the agent, and the *commission* is the public evidence of it. But there are still other acts previous to these not specially enumerated in the constitution, to wit: 1st. The destination of a mission to the particular country where the public service calls for it, and second the character or grade to be employed in it. The natural order of all these is first, destination; second, grade; third, nomination; fourth, appointment; fifth, commission. If *appointment* does not comprehend the neighboring

acts of *nomination* or *commission*, (and the Constitution says it shall not, by giving them exclusively to the President,) still less can it pretend to comprehend those previous and more remote, of *destination* and *grade*.

The Constitution, analysing the three last, shows they do not comprehend the two first. The fourth is the only one it submits to the Senate, shaping it into a right to say that "A or B is unfit to be appointed." Now, this cannot comprehend a right to say that "A or B is indeed fit to be appointed," but the grade fixed on is not the fit one to employ, or, "our connections with the country of his destination are not such as to call for any mission."

The Senate is not supposed by the constitution to be acquainted with the concerns of the Executive department. It was not intended that these should be communicated to them, nor can they therefore be qualified to judge of the necessity which calls for a mission to any particular place, or of the particular grade, more or less marked, which special and secret circumstances may call for. All this is left to the President. They are only to see that no unfit person be employed.

It may be objected that the Senate may by continual negatives on the *person*, do what amounts to a negative on the *grade*, and so, indirectly, defeat this right of the President. But this would be a breach of trust; an abuse of power confided to the Senate, of which that body cannot be supposed capable. So

the President has a power to convoke the Legislature, and the Senate might defeat that power by refusing to come. This equally amounts to a negative on the power of convoking. Yet nobody will say they possess such a negative, or would be capable of usurping it by such oblique means. If the Constitution had meant to give the Senate a negative on the grade or destination, as well as the person, it would have said so in direct terms, and not left it to be effected by a sidewind. It could never mean to give them the use of one power through the abuse of another.

Opinion upon the validity of a grant made by the State of Georgia to certain companies of individuals, of a tract of country whereof the Indian right had never been extinguished, with power to such individuals to extinguish the Indian right.

May 3d, 1790.

The State of Georgia, having granted to certain individuals a tract of country, within their chartered limits, whereof the Indian right has never yet been acquired; with a proviso in the grants, which implies that those individuals may take measures for extinguishing the Indian rights under the authority of that Government, it becomes a question how far this grant is good?

A society, taking possession of a vacant country, and declaring they mean to occupy it, does thereby

appropriate to themselves as prime occupants what was before common. A practice introduced since the discovery of America, authorizes them to go further, and to fix the limits which they assume to themselves; and it seems, for the common good, to admit this right to a moderate and reasonable extent.

If the country, instead of being altogether vacant, is thinly occupied by another nation, the right of the native forms an exception to that of the new comers; that is to say, these will only have a right against all other nations except the natives. Consequently, they have the exclusive privilege of acquiring the native right by purchase or other just means. This is called the right of preēmption, and is become a principle of the law of nations, fundamental with respect to America. There are but two means of acquiring the native title. First, war; for even war may, sometimes, give a just title. Second, contracts or treaty.

The States of America before their present union possessed completely, each within its own limits, the exclusive right to use these two means of acquiring the native title, and, by their act of union, they have as completely ceded both to the general government. Art. 2d, Section 1st, "The President shall have power, by and with the advice of the Senate, to make treaties, provided two thirds of the Senators present concur." Art. 1st, Section 8th, "The Congress shall have power to declare war, to raise and support armies." Section 10th, "No State shall

enter into any treaty, alliance or confederation. No State shall, without the consent of Congress, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay."

These paragraphs of the Constitution, declaring that the general government shall have, and that the particular ones shall not have, the right of war and treaty, are so explicit that no commentary can explain them further, nor can any explain them away. Consequently, Georgia, *possessing the exclusive right to acquire the native title*, but having relinquished the *means* of doing it to the general government, can only have put her grantee into her own condition. She could convey to them the exclusive right to acquire; but she could not convey what she had not herself, that is, the means of acquiring.

For these they must come to the general government, in whose hands they have been wisely deposited for the purposes both of peace and justice.

What is to be done? The right of the general government is, in my opinion, to be maintained. The case is sound, and the means of doing it as practicable as can ever occur. But respect and friendship should, I think, mark the conduct of the general towards the particular government, and explanations should be asked and time and color given them to tread back their steps before coercion is held up to their view.

I am told there is already a strong party in Georgia opposed to the act of their government.

I should think it better then that the first measures, while firm, be yet so temperate as to secure their alliance and aid to the general government.

Might not the eclat of a proclamation revolt their pride and passion, and throw them hastily into the opposite scale? It will be proper indeed to require from the government of Georgia, in the first moment, that while the general government shall be expecting and considering her explanations, things shall remain in *statu quo*, and not a move be made towards carrying what they have begun into execution.

Perhaps it might not be superfluous to send some person to the Indians interested, to explain to them the views of government, and to watch with their aid the territory in question.

Opinion in favor of the resolutions of May 21st, 1790, directing that, in all cases where payment had not been already made, the debts due to the soldiers of Virginia and North Carolina, should be paid to the original claimants or their attorneys, and not to their assignees.

June 3d, 1790.

The accounts of the soldiers of Virginia and North Carolina, having been examined by the proper officer of government, the balances due to each individual

ascertained, and a list of these balances made out, this list became known to certain persons before the soldiers themselves had information of it, and those persons, by unfair means, as is said, and for very inadequate considerations, obtained assignments from many of the soldiers of whatever sum should be due to them from the public, without specifying the amount.

The legislature, to defeat this fraud, passed resolutions on the 21st of May, 1790, directing that where payment had not been made to the original claimant in person or his representatives, it shall be made to him or them personally, or to their attorney, producing a power for that purpose, attested by two justices of the county where he resides, and specifying the certain sum he is to receive.

It has been objected to these resolutions that they annul transfers of property which were good by the laws under which they were made; that they take from the assignees their lawful property; are contrary to the principles of the constitution, which condemn retrospective laws; and are, therefore, not worthy of the President's approbation.

I agree in an almost unlimited condemnation of retrospective laws. The few instances of wrong which they redress are so overweighed by the insecurity they draw over all property and even over life itself, and by the atrocious violations of both to which they lead that it is better to live under the evil than the remedy.

The only question I shall make is, whether these resolutions annul acts which were valid when they were done?

This question respects the laws of Virginia and North Carolina only. On the latter I am not qualified to decide, and therefore beg leave to confine myself to the former.

By the common law of England (adopted in Virginia) the conveyance of a right to a debt or other thing whereof the party is not in possession, is not only void, but severely punishable under the names of Maintenance and Champerty. The Law-merchants, however, which is permitted to have course between merchants, allows the assignment of a *bill of exchange* for the convenience of commerce. This, therefore, forms one exception to the general rule, that a mere right or thing in action is not assignable. A second exception has been formed by an English statute (copied into the laws of Virginia) permitting *promissory notes* to be assigned. The laws of Virginia have gone yet further than the statute, and have allowed, as a third exception, that a *bond* should be assigned, which cannot be done even at this day in England. So that, in Virginia, when a debt has been settled between the parties and put into the form of a bill of exchange, promissory note or bond, the law admits it to be transferred by assignment. In all other cases the assignment of a debt is void.

The debts from the United States to the soldiers

of Virginia, not having been put into either of these forms, the assignments of them were void in law.

A creditor may give an order on his debtor in favor of another, but if the debtor does not accept it, he must be sued in the creditor's name; which shows that the *order* does not transfer the property of the debts. The creditor may appoint another to be his attorney to receive and recover his debt, and he may covenant that when received the attorney may apply it to his own use. But he must sue as attorney to the original proprietor, and not in his own right.

This proves that a *power of attorney*, with such a *covenant*, does not transfer the property of the debt. A further proof in both cases is, that the original creditor may at any time before payment or acceptance revoke either his order or his power of attorney.

In that event the person in whose favor they were given has recourse to a court of equity. When there, the judge examines whether he has done equity. If he finds his transaction has been a fair one, he gives him aid. If he finds it has been otherwise, not permitting his court to be made a handmaid to fraud, he leaves him without remedy in equity as he was in law. The assignments in the present case, therefore, if unfairly obtained, as seems to be admitted, are void in equity as they are in law. And they derive their nullity from the laws under which they were made, not from the new resolutions of Congress. These are not retrospective. They only direct their

treasurer not to give validity to an assignment which had it not before, by payments to the assignee until he in whom the legal property still is, shall order it in such a form as to show he is apprized of the sum he is to part with, and its readiness to be paid into his or any other hands, and that he chooses, notwithstanding, to acquiesce under the fraud which has been practised on him. In that case he has only to execute before two justices a power of attorney to the same person, expressing the specific sum of his demand, and it is to be complied with. Actual payment, in this case, is an important act. If made to the assignee, it would put the burthen of proof and process on the original owner. If made to that owner, it puts it on the assignee, who must then come forward and show that his transaction has been that of an honest man.

Government seems to be doing in this what every individual, I think, would feel himself bound to do in the case of his own debt. For, being free in the law, to pay to the one or the other, he would certainly give the advantage to the party who has suffered wrong rather than to him who has committed it.

It is not honorable to take a mere legal advantage, when it happens to be contrary to justice.

But it is honorable to embrace a salutary principle of law when a relinquishment of it is solicited only to support a fraud.

I think the resolutions, therefore, merit approbation. I have before professed my incompetence to

say what are the laws of North Carolina on this subject. They, like Virginia, adopted the English laws in the gross. These laws forbid in general the buying and selling of debts, and their policy in this is so wise that I presume they had not changed it till the contrary be shown.

Plan for establishing uniformity in the Coinage, Weights, and Measures of the United States. Communicated to the House of Representatives, July 13, 1790.

New York, July 4, 1790.

Sir:—In obedience to the order of the House of Representatives of January 15th, I have now the honor to enclose you a report on the subject of measures, weights, and coins. The length of time which intervened between the date of the order and my arrival in this city, prevented my receiving it till the 15th of April; and an illness which followed soon after added, unavoidably, some weeks to the delay; so that it was not till about the 20th May that I was able to finish the report. A desire to lessen the number of its imperfections induced me still to withhold it awhile, till, on the 15th of June, came to my hands, from Paris, a printed copy of a proposition made by the Bishop of Autun, to the National Assembly of France, on the subject of weights and measures; and three days afterwards I received, through the channel of the public papers, the speech of Sir John Riggs Miller, of April 13th, in the British House of Commons, on the same subject. In the report which I had prepared, and was then about to give in, I had proposed the latitude of 38°, as that which should fix our standard, because it was the medium latitude of the United States; but the proposition before the National Assembly of France, to take that of 45° as being a middle term between the equator and both poles, and a term which consequently might unite the nations of both hemispheres, appeared to me so well chosen, and so just, that I did not hesitate a moment to prefer it to that of 38°. It became necessary, of course, to conform all my calculations to that standard—an operation which has been retarded by my other occupations.

These circumstances will, I hope, apologize for the delay which has attended th execution of the order of the House; and, perhaps, a disposition on their part to have due regard for the proceedings of other nations, engaged on the same subject, may induce them still to defer deciding ultimately on it till their next session. Should this be the case, and should any new matter occur in the meantime, I shall think it my duty to communicate it to the House, as supplemental to the present report.

I have the honor to be, with sentiments of the most profound respect,

Sir, your most obedient and most humble servant.

The Secretary of State, to whom was referred, by the House of Representatives, to prepare and report a proper plan or plans for establishing uniformity in the currency, weights, and measures of the United States, in obedience thereto, makes the following report:—

To obtain uniformity in measures, weights, and coins, it is necessary to find some measure of invariable length, with which, as a standard, they may be compared.

There exists not in nature, as far as has been hitherto observed, a single subject or species of subject, accessible to man, which presents one constant and uniform dimension.

The globe of the earth itself, indeed, might be considered as invariable in all its dimensions, and that its circumference would furnish an invariable measure; but no one of its circles, great or small, is accessible to admeasurement through all its parts, and the various trials to measure definite portions of them, have been of such various results as to show there is no dependence on that operation for certainty.

Matter, then, by its mere extension, furnishing nothing invariable, its motion is the only remaining resource.

The motion of the earth round its axis, though not absolutely uniform and invariable, may be considered as such for every human purpose. It is measured obviously, but unequally, by the departure of a given meridian from the sun, and its return to it, constituting a solar day. Throwing together the inequalities of solar days, a mean interval, or day, has been found, and divided, by very general consent, into 86,400 equal parts.

A pendulum, vibrating freely, in small and equal arcs, may be so adjusted in its length, as, by its vibrations, to make this division of the earth's motion into 86,400 equal parts, called seconds of mean time.

Such a pendulum, then, becomes itself a measure of determinate length, to which all others may be referred to as to a standard.

But even a pendulum is not without its uncertainties.

1. The difficulty of ascertaining, in practice, its centre of oscillation, as depending on the form of the bob, and its distance from the point of suspension; the effect of the weight of the suspending wire towards displacing the centre of oscillation; that centre being seated within the body of the bob, and therefore inaccessible to the measure, are sources of considerable uncertainty.

2. Both theory and experience prove that, to pre-

serve its isochronism, it must be shorter towards the equator, and longer towards the poles.

3. The height of the situation above the common level, as being an increment to the radius of the earth, diminishes the length of the pendulum.

4. The pendulum being made of metal, as is best, it varies its length with the variations in the temperature of the atmosphere.

5. To continue small and equal vibrations, through a sufficient length of time, and to count these vibrations, machinery and a power are necessary, which may exert a small but constant effort to renew the waste of motion; and the difficulty is so to apply these, as that they shall neither retard nor accelerate the vibrations.

1. In order to avoid the uncertainties which respect the centre of oscillation, it has been proposed by Mr. Leslie, an ingenious artist of Philadelphia, to substitute, for the pendulum, a uniform cylindrical rod, without a bob.

Could the diameter of such a rod be infinitely small, the centre of oscillation would be exactly at two-thirds of the whole length, measured from the point of suspension. Giving it a diameter which shall render it sufficiently inflexible, the centre will be displaced, indeed; but, in a second rod not the (1) six hundred thousandth part of its length, and not the hundredth part as much as in a second pendulum with a spherical bob of proper diameter. This displacement is so infinitely minute, then, that we may

consider the centre of oscillation, for all practical purposes, as residing at two-thirds of the length from the centre of suspension. The distance between these two centres might be easily and accurately ascertained in practice. But the whole rod is better for a standard than any portion of it, because sensibly defined at both its extremities.

2. The uncertainty arising from the difference of length requisite for the second pendulum, or the second rod, in different latitudes, may be avoided by fixing on some one latitude, to which our standard shall refer. That of 38°, as being the middle latitude of the United States, might seem the most convenient, were we to consider ourselves alone; but connected with other nations by commerce and science, it is better to fix on that parallel which bids fairest to be adopted by them also. The 45th, as being the middle term between the equator and pole, has been heretofore proposed in Europe, and the proposition has been lately renewed there under circumstances which may very possibly give it some effect. This parallel is distinguished with us also as forming our principal northern boundary. Let the completion of the 45th degree, then, give the standard for our union, with the hope that it may become a line of union with the rest of the world.

The difference between the second rod for 45° of latitude, and that for 31°, our other extreme, is to be examined.

The second *pendulum* for 45° of latitude, according

to Sir Isaac Newton's computation, must be of (2) 39.14912 inches English measure; and a *rod*, to vibrate in the same time, must be of the same length between the centres of suspension and oscillation; and, consequently, its whole length 58.7 (or, more exactly, 58.72368) inches. This is longer than the rod which shall vibrate seconds in the 31° of latitude, by about $\frac{1}{670}$ part of its whole length; a difference so minute, that it might be neglected, as insensible, for the common purposes of life, but, in cases requiring perfect exactness, the second rod, found by trial of its vibrations in any part of the United States, may be corrected by computation for the (3) latitude of the place, and so brought exactly to the standard of 45°.

3. By making the experiment in the level of the ocean, the difference will be avoided, which a higher position might occasion.

4. The expansion and contraction of the rod with the change of temperature, is the fourth source of uncertainty before mentioned. According to the high authority so often quoted, an iron rod, of given length, may vary, between summer and winter, in temperate latitudes, and in the common exposure of house clocks, from $\frac{1}{1720}$ to $\frac{1}{2592}$ of its whole length, which, in a rod of 58.7 inches, will be from about two to three hundredths of an inch. This may be avoided by adjusting and preserving the standard in a cellar, or other place, the temperature of which never varies. Iron is named for this purpose, because the least expansible of the metals.

5. The practical difficulty resulting from the effect of the machinery and moving power is very inconsiderable in the present state of the arts; and, in their progress towards perfection, will become less and less. To estimate and obviate this, will be the artist's province. It is as nothing when compared with the sources of inaccuracy hitherto attending measures.

Before quitting the subject of the inconveniences, some of which attend the pendulum alone, others both the pendulum and rod, it must be added that the rod would have an accidental but very precious advantage over the pendulum in this country, in the event of our fixing the foot at the nearest aliquot part of either; for the difference between the common foot, and those so to be deduced, would be three times greater in the case of the pendulum than in that of the rod.

Let the standard of measure, then, be a uniform cylindrical rod of iron, of such length as, in latitude 45°, in the level of the ocean, and in a cellar, or other place, the temperature of which does not vary through the year, shall perform its vibrations in small and equal arcs, in one second of mean time.

A standard of invariable length being thus obtained, we may proceed to identify, by that, the measures, weights and coins of the United States; but here a doubt presents itself as to the extent of the reformation meditated by the House of Repre-

sentatives. The experiment made by Congress in the year one thousand seven hundred and eighty-six, by declaring that there should be one money of account and payment through the United States, and that its parts and multiples should be in a decimal ratio,[1] has obtained such general approbation, both at home and abroad, that nothing seems wanting but the actual coinage, to banish the discordant pounds, shillings, pence, and farthings of the different States, and to establish in their stead the new denominations. Is it in contemplation with the House of Representatives to extend a like improvement to our measures and weights, and to arrange them also in a decimal ratio? The facility which this would introduce into the vulgar arithmetic would, unquestionably, be soon and sensibly felt by the whole mass of the people, who would thereby be enabled to compute for themselves whatever they should have occasion to buy, to sell, or to measure, which the present complicated and difficult ratios place beyond their computation for the most part. Or, is it the opinion of the Representatives that the difficulty of changing the established habits of a whole nation opposes an insuperable bar to this improvement? Under this uncertainty, the Secretary of State thinks it his duty to submit alternative plans, that the House may, at their will, adopt either the one or the other, exclusively, or the one for the present and the other for a future

[1] See Vol. I. p. 162.

time, when the public mind may be supposed to have become familiarized to it.

1. And first, on the supposition that the present measures and weights are to be retained but to be rendered uniform and invariable, by bringing them to the same invariable standard.

The first settlers of these States, having come chiefly from England, brought with them the measures and weights of that country. These alone are generally established among us, either by law or usage; and these, therefore, are alone to be retained and fixed. We must resort to that country for information of what they are, or ought to be.

This rests, principally, on the evidence of certain standard measures and weights, which have been preserved, of long time, in different deposits. But differences among these having been known to exist, the House of Commons, in the years 1757 and 1758, appointed committees to inquire into the original standards of their weights and measures. These committees, assisted by able mathematicians and artists, examined and compared with each other the several standard measures and weights, and made reports on them in the years 1758 and 1759. The circumstances under which these reports were made entitle them to be considered, as far as they go, as the best written testimony existing of the standard measures and weights of England; and as such, they will be relied on in the progress of this report.

MEASURES OF LENGTH.

The measures of length in use among us are:

The league of 3 miles,
The mile of 8 furlongs,
The furlong of 40 poles or perches,
The pole or perch of 5½ yards,
The fathom of 2 yards,
The ell of a yard and quarter,
The yard of 3 feet,
The foot of 12 inches, and
The inch of 10 lines.

On this branch of their subject, the committee of 1757–1758, says that the standard measures of length at the receipt of the exchequer, are a yard, supposed to be of the time of Henry VII., and a yard and ell supposed to have been made about the year 1601; that they are brass rods, very coarsely made, their divisions not exact, and the rods bent; and that in the year 1742, some members of the Royal Society had been at great pains in taking an exact measure of these standards, by very curious instruments, prepared by the ingenious Mr. Graham; that the Royal Society had had a brass rod made pursuant to their experiments, which was made so accurately, and by persons so skilful and exact, that it was thought not easy to obtain a more exact one; and the committee, in fact, found it to agree with the standards at the exchequer, as near as it was possible. They furnish no means, to persons at a distance, of knowing what

this standard is. This, however, is supplied by the evidence of the second pendulum, which, according to the authority before quoted, is, at London, 39.1682 English inches, and, consequently, the second rod there is of 58.7523 of the same inches. When we shall have found, then, by actual trial, the second rod for 45° by adding the difference of their computed length, to wit: $\frac{28}{1000}$ of an inch, or rather $\frac{3}{10}$ of a line (which in practice will endanger less error than an attempt at so minute a fraction as the ten thousandth parts of an inch) we shall have the second rod of London, or a true measure of 58¾ English inches. Or, to shorten the operation, without varying the result,

Let the standard rod of 45° be divided into $587\frac{1}{5}$ equal parts, and let each of these parts be declared a line.

10 lines an inch,
12 inches a foot,
3 feet a yard,
3 feet 9 inches an ell,
6 feet a fathom,
5½ yards a perch or pole,
40 poles or perches a furlong,
8 furlongs a mile,
3 miles a league.

SUPERFICIAL MEASURES.

Our measures of surface are, the acre, of 4 roods and the rood of 40 square poles; so established by a statute of 33 Edw. 1. Let them remain the same.

MEASURES OF CAPACITY.

The measures of capacity in use among us are of the following names and proportions:

The gill, four of which make a pint.

Two pints make a quart.

Two quarts a pottle.

Two pottles a gallon.

Two gallons a peck, dry measure.

Eight gallons make a measure called a firkin, in liquid substances, and a bushel, dry.

Two firkins, or bushels, make a measure called a rundlet or kilderkin, liquid, and a strike, dry.

Two kilderkins, or strikes, make a measure called a barrel, liquid, and a coomb, dry; this last term being ancient and little used.

Two barrels, or coombs, make a measure called a hogshead, liquid, or a quarter, dry; each being the quarter of a ton.

A hogshead and a third make a tierce, or third of a ton.

Two hogsheads make a pipe, butt, or puncheon; and

Two pipes make a ton.

But no one of these measures is of a determinate capacity. The report of the committee of 1757–8, shows that the gallon is of very various content; and that being the unit, all the others must vary with it.

The gallon and bushel contain—

224 and 1792 cubic inches, according to the standard wine gallon preserved at Guildhall.

231 and 1848, according to the statute of 5th of Anne.

264.8 and 2118.4, according to the ancient Rumford quart, of 1228, examined by the committee.

265.5 and 2124, according to three standard bushels preserved in the Exchequer, to wit: one of Henry VII., without a rim; one dated 1091, supposed for 1591, or 1601, and one dated 1601.

266.25 and 2130, according to the ancient Rumford gallon of 1228, examined by the committee.

268.75 and 2150, according to the Winchester bushel, as declared by statute 13, 14, William III., which has been the model for some of the grain States.

271, less 2 spoonfuls, and 2168, less 16 spoonfuls, according to a standard gallon of Henry VII., and another dated 1601, marked E. E., both in the Exchequer.

271 and 2168, according to a standard gallon in the Exchequer, dated 1601, marked E., and called the corn gallon.

272 and 2176, according to the three standard corn gallons last mentioned, as measured in 1688, by an artist for the Commissioners of the Excise, generally used in the seaport towns, and by mercantile people, and thence introduced into some of the grain States.

277.18 and 2217.44, as established for the measure of coal by the statute 12 Anne.

278 and 2224, according to the standard bushel of Henry VII., with a copper rim, in the Exchequer.

278.4 and 2227.2, according to two standard pints of 1601 and 1602, in the Exchequer.

280 and 2240, according to the standard quart of 1601, in the Exchequer.

282 and 2256, according to the standard gallon for beer and ale in the Treasury.

There are, moreover, varieties on these varieties, from the barrel to the ton, inclusive; for, if the barrel be of herrings, it must contain 28 gallons by the statute 13 Eliz. c. 11. If of wine, it must contain 31½ gallons by the statute 2 Henry VI. c. 11, and 1 Rich. III. c. 15. If of beer or ale, it must contain 34 gallons by the statute 1 William and Mary, c. 24, and the higher measures in proportion.

In those of the United States which have not adopted the statutes of William and Mary, and of Anne before cited, nor their substance, the wine gallon of 231 cubic inches rests on the authority of very long usage, before the 5th of Anne, the origin and foundation of which are unknown; the bushel is the Winchester bushel, by the 11 Henry VII. undefined; and the barrel of ale 32 gallons, and of beer 36 gallons, by the statute 23 Henry VIII. c. 4.

The Secretary of State is not informed whether

there have been any, and what, alterations of these measures by the laws of the particular States.

It is proposed to retain this series of measures, but to fix the gallon to one determinate capacity, as the unit of measure, both wet and dry; for convenience is in favor of abolishing the distinction between wet and dry measures.

The wine gallon, whether of 224 or 231 cubic inches, may be altogether disregarded, as concerning, principally, the mercantile and the wealthy, the least numerous part of the society, and the most capable of reducing one measure to another by calculation. This gallon is little used among the mass of farmers, whose chief habits and interests are in the size of the corn bushel.

Of the standard measures before stated, two are principally distinguished in authority and practice. The statute bushel of 2150 cubic inches, which gives a gallon of 268.75 cubic inches, and the standard gallon of 1601, called the corn gallon of 271 or 272 cubic inches, which has introduced the mercantile bushel of 2276 inches. The former of these is most used in some of the grain States, the latter in others. The middle term of 270 cubic inches may be taken as a mutual compromise of convenience, and as offering this general advantage: that the bushel being of 2160 cubic inches, is exactly a cubic foot and a quarter, and so facilitates the conversion of wet and dry measures into solid contents and tonnage, and simplifies the connection of measures

and weights, as will be shown hereafter. It may be added, in favor of this, as a medium measure, that eight of the standard, or statute measures before enumerated, are below this term, and nine above it.

The measures to be made for use, being four sided, with rectangular sides and bottom.

The pint will be 3 inches square, and 3¾ inches deep;

The quart 3 inches square, and 7½ inches deep;

The pottle 3 inches square, and 15 inches deep, or 4½, 5, and 6 inches;

The gallon 6 inches square, and 7½ inches deep, or 5, 6, and 9 inches;

The peck 6, 9, and 10 inches;

The half bushel 12 inches square, and 7½ inches deep; and

The bushel 12 inches square, and 15 inches deep, or 9, 15, and 16 inches.

Cylindrical measures have the advantage of superior strength, but square ones have the greater advantage of enabling every one who has a rule in his pocket, to verify their contents by measuring them. Moreover, till the circle can be squared, the cylinder cannot be cubed, nor its contents exactly expressed in figures.

Let the measures of capacity, then, for the United States be—

A gallon of 270 cubic inches;

The gallon to contain 2 pottles;

The pottle 2 quarts;
The quart 2 pints;
The pint 4 gills;
Two gallons to make a peck;
Eight gallons a bushel or firkin;
Two bushels, or firkin, a strike or kilderkin;
Two strikes, or kilderkins, a coomb or barrel;
Two coombs, or barrels, a quarter or hogshead;
A hogshead and a third one tierce;
Two hogsheads a pipe, butt, or puncheon; and
Two pipes a ton.
And let all measures of capacity of dry subjects be stricken with a straight strike.

WEIGHTS.

There are two series of weights in use among us; the one called avoirdupois, the other troy.

In the Avoirdupois series:

The pound is divided into 16 ounces;
The ounce into 16 drachms;
The drachm into 4 quarters.

In the Troy series:

The pound is divided into 12 ounces;
The ounce (according to the subdivision of the apothecaries) into 8 drachms;
The drachm into 3 scruples;
The scruple into 20 grains.
According to the subdivision for gold and silver,

the ounce is divided into twenty pennyweights, and the pennyweight into twenty-four grains.

So that the pound troy contains 5760 grains, of which 7000 are requisite to make the pound avoirdupois; of course the weight of the pound troy is to that of the pound avoirdupois as 5760 to 7000, or as 144 to 175.

It is remarkable that this is exactly the proportion of the ancient liquid gallon of Guildhall of 224 cubic inches, to the corn gallon of 272; for 224 are to 272 as 144 to 175. (4.)

It is further remarkable still, that this is also the exact proportion between the specific weight of any measure of wheat, and of the same measure of water: for the statute bushel is of 64 pounds of wheat. Now as 144 to 175, so are 64 pounds to 77.7 pounds; but 77.7 pounds is known to be the weight of (5.) 2150.4 cubic inches of pure water, which is exactly the content of the Winchester bushel, as declared by the statute 13, 14, Will. 3. That statute determined the bushel to be a cylinder of 18½ inches diameter, and 8 inches depth. Such a cylinder, as nearly as it can be cubed, and expressed in figures, contains 2150.425 cubic inches; a result which reflects authority on the declaration of Parliament, and induces a favorable opinion of the care with which they investigated the contents of the ancient bushel, and also a belief that there might exist evidence of it at that day, unknown to the committees of 1758 and 1759.

We find, then, in a continued proportion 64 to 77.7 as 224 to 272, and as 144 to 175, that is to say, the specific weight of a measure of wheat, to that of the same measure of water, as the cubic contents of the wet gallon, to those of the dry; and as the weight of a pound troy to that of a pound avoirdupois.

This seems to have been so combined as to render it indifferent whether a thing were dealt out by weight or measure; for the dry gallon of wheat, and the liquid one of wine, were of the same weight; and the avoirdupois pound of wheat, and the troy pound of wine, were of the same measure. Water and the vinous liquors, which enter most into commerce, are so nearly of a weight, that the difference, in moderate quantities, would be neglected by both buyer and seller; some of the wines being a little heavier, and some a little lighter, than water.

Another remarkable correspondence is that between weights and measures. For 1000 ounces avoirdupois of pure water fill a cubic foot, with mathematical exactness.

What circumstances of the times, or purposes of barter or commerce, called for this combination of weights and measures, with the subjects to be exchanged or purchased, are not now to be ascertained. But a triple set of exact proportionals representing weights, measures, and the things to be weighed and measured, and a relation so integral between weights and solid measures, must have

been the result of design and scientific calculation, and not a mere coincidence of hazard. It proves that the dry and wet measures, the heavy and light weights, must have been original parts of the system they compose—contrary to the opinion of the committee of 1757, 1758, who thought that the avoirdupois weight was not an ancient weight of the kingdom, nor ever even a legal weight, but during a single year of the reign of Henry VIII.; and, therefore, concluded, otherwise than will be here proposed, to suppress it altogether. Their opinion was founded chiefly on the silence of the laws as to this weight. But the harmony here developed in the system of weights and measures, of which the avoirdupois makes an essential member, corroborated by a general use, from very high antiquity, of that, or of a nearly similar weight under another (6.) name, seem stronger proofs that this is legal weight, than the mere silence of the written laws is of the contrary.

Be this as it may, it is in such general use with us, that, on the principle of popular convenience, its higher denominations, at least, must be preserved. It is by the avoirdupois pound and ounce that our citizens have been used to buy and sell. But the smaller subdivisions of drachms and quarters are not in use with them. On the other hand, they have been used to weigh their money and medicine with the pennyweights and grains troy weight, and are not in the habit of using the pounds and ounces of that series. It would be for their convenience, then,

to suppress the pound and ounce troy, and the drachm and quarter avoirdupois; and to form into one series the avoirdupois pound and ounce, and the troy pennyweight and grain. The avoirdupois ounce contains 18 pennyweights 5½ grains troy weight. Divide it, then, into 18 pennyweights, and the pennyweight, as heretofore, into 24 grains, and the new pennyweight will contain between a third and a quarter of a grain more than the present troy pennyweight; or, more accurately, it will be to that as 875 to 864—a difference not to be noticed, either in money or medicine, below the denomination of an ounce.

But it will be necessary to refer these weights to a determinate mass of some substance, the specific gravity of which is invariable. Rain water is such a substance, and may be referred to everywhere, and through all time. It has been found by accurate experiments that a cubic foot of rain water weighs 1000 ounces avoirdupois, standard weights of the exchequer. It is true that among these standard weights the committee report small variations; but this experiment must decide in favor of those particular weights, between which, and an integral mass of water, so remarkable a coincidence has been found. To render this standard more exact, the water should be weighed always in the same temperature of air; as heat, by increasing its volume, lessens its specific gravity. The cellar of uniform temperature is best for this also.

Let it, then, be established that an ounce is of the weight of a cube of rain water, of one-tenth of a foot; or, rather, that it is the thousandth part of the weight of a cubic foot of rain water, weighed in the standard temperature; that the series of weights of the United States shall consist of pounds, ounces, pennyweights, and grains; whereof

24 grains shall be one pennyweight;
18 pennyweights one ounce;
16 ounces one pound.

COINS.

Congress, in 1786, established the money unit at 375.64 troy grains of pure silver. It is proposed to enlarge this by about the third of a grain in weight, or a mill in value; that is to say, to establish it at 376 (or, more exactly, 375.989343) instead of 375.64 grains; because it will be shown that this, as the unit of coin, will link in system with the units of length, surface, capacity, and weight, whenever it shall be thought proper to extend the decimal ratio through all these branches. It is to preserve the possibility of doing this, that this very minute alteration is proposed.

We have this proportion, then, 875 to 864, as 375.989343 grains troy to 371.2626277; the expression of the unit in the new grains.

Let it be declared, therefore, that the money unit, or dollar of the United States, shall contain 371.262 American grains of pure silver.

If nothing more, then, is proposed, than to render uniform and stable the system we already possess, this may be effected on the plan herein detailed; the sum of which is: 1st. That the present measures of length be retained, and fixed by an invariable standard. 2d. That the measures of surface remain as they are, and be invariable also as the measures of length to which they are to refer. 3d. That the unit of capacity, now so equivocal, be settled at a medium and convenient term, and defined by the same invariable measures of length. 4th. That the more known terms in the two kinds of weights be retained, and reduced to one series, and that they be referred to a definite mass of some substance, the specific gravity of which never changes. And 5th. That the quantity of pure silver in the money unit be expressed in parts of the weights so defined.

In the whole of this no change is proposed, except an insensible one in the troy grain and pennyweight, and the very minute one in the money unit.

II. But if it be thought that, either now, or at any future time, the citizens of the United States may be induced to undertake a thorough reformation of their whole system of measures, weights and coins, reducing every branch to the same decimal ratio already established in their coins, and thus bringing the calculation of the principal affairs of life within the arithmetic of every man who can multiply and divide plain numbers, greater changes will be necessary.

The unit of measure is still that which must give law through the whole system; and from whatever unit we set out, the coincidences between the old and new ratios will be rare. All that can be done, will be to choose such a unit as will produce the most of these. In this respect the second rod has been found, on trial, to be far preferable to the second pendulum.

MEASURES OF LENGTH.

Let the second rod, then, as before described, be the standard of measure; and let it be divided into five equal parts, each of which shall be called a foot; for, perhaps, it may be better generally to retain the name of the nearest present measure, where there is one tolerably near. It will be about one quarter of an inch shorter than the present foot.

Let the foot be divided into 10 inches;
The inch into 10 lines;
The line into 10 points;
Let 10 feet make a decad;
10 decads one rood;
10 roods a furlong;
10 furlongs a mile.

SUPERFICIAL MEASURES.

Superficial measures have been estimated, and so may continue to be, in squares of the measures of length, except in the case of lands, which have been estimated by squares, called roods and acres. Let

the rood be equal to a square, every side of which is 100 feet. This will be 6.483 English feet less than the English (7.) rood every way, and 1311 square feet less in its whole contents; that is to say, about one-eighth; in which proportion, also, 4 roods will be less than the present acre.

MEASURES OF CAPACITY.

Let the unit of capacity be the cubic foot, to be called a bushel. It will contain 1620.05506862 cubic inches, English; be about one-fourth less than that before proposed to be adopted as a medium; one-tenth less than the bushel made from 8 of the Guildhall gallons; and one-fourteenth less than the bushel made from 8 Irish gallons of 217.6 cubic inches.

Let the bushel be divided into 10 pottles;
Each pottle into 10 demi-pints;
Each demi-pint into 10 metres, which will be of a cubic inch each.
Let 10 bushels be a quarter, and
10 quarters a last, or double ton.

The measures for use being four-sided, and the sides and bottoms rectangular, the bushel will be a foot cube.

The pottle 5 inches square and 4 inches deep;
The demi-pint 2 inches square, and 2½ inches deep;
The metre, an inch cube.

WEIGHTS.

Let the weight of a cubic inch of rain water, or the thousandth part of a cubic foot, be called an ounce; and let the ounce be divided into 10 double scruples:

The double scruple into 10 carats:
The carat into 10 minims or demi-grains;
The minim into 10 mites.
Let 10 ounces make a pound;
10 pounds a stone;
16 stones a kental;
10 kentals a hogshead.

COINS.

Let the money unit, or dollar, contain eleven-twelfths of an ounce of pure silver. This will be 376 troy grains, (or more exactly, 375.989343 troy grains,) which will be about a third of a grain, (or more exactly, .349343 of a grain, more than the present unit. This, with the twelfth of alloy already established, will make the dollar or unit, of the weight of an ounce, or of a cubic inch of rain water, exactly. The series of mills, cents, dimes, dollars, and eagles, to remain as already established. (8.)

The second rod, or the second pendulum, expressed in the measures of other countries, will give the proportion between their measures and those of the United States.

Measures, weights and coins, thus referred to standards unchangeable in their nature, (as is the

length of a rod vibrating seconds, and the weight of a definite mass of rain water,) will themselves be unchangeable. These standards, too, are such as to be accessible to all persons, in all times and places. The measures and weights derived from them fall in so nearly with some of those now in use, as to facilitate their introduction; and being arranged in decimal ratio, they are within the calculation of every one who possesses the first elements of arithmetic, and of easy comparison, both for foreigners and citizens, with the measures, weights, and coins of other countries.

A gradual introduction would lessen the inconveniences which might attend too sudden a substitution, even of an easier for a more difficult system. After a given term, for instance, it might begin in the custom-houses, where the merchants would become familiarized to it. After a further term, it might be introduced into all legal proceedings, and merchants and traders in foreign commodities might be required to use it in their dealings with one another. After a still further term, all other descriptions of people might receive it into common use. Too long a postponement, on the other hand, would increase the difficulties of its reception with the increase of our population.

Appendix, containing illustrations and developments of some passages of the preceding report.

(1.) In the second pendulum with a spherical bob,

call the distance between the centres of suspension and of the bob, 2×19.575, or 2d, and the radius of the bob=r; then 2d : r :: r : $\frac{rr}{2d}$ and $\frac{2}{5}$ of this last proportional expresses the displacement of the centre of oscillation, to wit: $\frac{2rr}{5\times 2d}=\frac{rr}{5d}$. Two inches have been proposed as a proper diameter for such a bob. In that case r will be=1. inch, and $\frac{rr}{5d}=\frac{1}{9787}$ inches.

In the cylindrical second rod, call the length of the rod, 3×19.575. or 3d, and its radius=r and $\frac{rr}{2\times 3d}=\frac{rr}{6d}$ will express the displacement of the centre of oscillation. It is thought the rod will be sufficiently inflexible if it be $\frac{1}{5}$ of an inch in diameter. Then r will be=.1 inch, and $\frac{rr}{6d}=\frac{1}{11745}$ inches, which is but the 120th part of the displacement in the case of the pendulum with a spherical bob, and but the 689,710th part of the whole length of the rod. If the rod be even of half an inch diameter, the displacement will be but $\frac{1}{1879}$ of an inch, or $\frac{1}{110356}$ of the length of the rod.

(2.) Sir Isaac Newton computes the pendulum for 45° to be 36 pouces 8.428 lignes. Picard made the English foot 11 pouces 2.6 lignes, and Dr. Maskelyne 11 pouces 3.11 lignes. D'Alembert states it at 11 pouces 3 lignes, which has been used in these calculations as a middle term, and gives us 36 pouces 8.428 lignes=39.1491 inches. This length for the pendulum of 45° had been adopted in this report before the Bishop of Autun's proposition was known here. He relies on Mairan's ratio for the length of the pendulum in the latitude of Paris, to wit:

504 : 257 :: 72 pouces to a 4th proportional, which will be 36.71428 pouces = 39.1619 inches, the length of the pendulum for latitude 48° 50′. The difference between this and the pendulum for 45° is .0113 of an inch; so that the pendulum for 45° would be estimated, according to Mairan, at 39.1619—.0113 = 39.1506 inches, almost precisely the same with Newton's computation herein adopted.

(3.) Sir Isaac Newton's computations for the different degrees of latitude, from 30° to 45°, are as follows:

	Pieds.	Lignes.		Pieds.	Lignes.
30°	3	7.948	42°	3	8.327
35	3	8.099	43	3	8.361
40	3	8.261	44	3	8.394
41	3	8.294	45	3	8.428

(4.) Or, more exactly, 144 : 175 :: 224 : 272.2.

(5.) Or, more exactly, 62.5 : 1728 :: 77.7 : 2150.39.

(6.) The merchant's weight.

(7.) The English rood contains 10,890 square feet = 104.355 feet square.

(8.) *The Measures, Weights, and Coins of the Decimal System, estimated in those of England, now used in the United States.*

I. MEASURES OF LENGTH.

	Feet.	Equivalent in English measure.
The point,	.001	.011 inch.
The line,	.01	.117
The inch,	.1	1.174, about $\frac{1}{7}$ more than the English inch.

	Feet.	Equivalent in English measure.
The foot,	1.	11.744736 / .978728 feet, about $\frac{1}{48}$ less than the English foot.
The decad,	10.	9.787, about $\frac{1}{48}$ less than the 10 feet rod of the carpenters.
The rood,	100.	97.872, about $\frac{1}{16}$ less than the side of an English square rood.
The furlong,	1000.	978.728, about $\frac{1}{3}$ more than the English furlong.
The mile,	10000.	9787.28, about $1\frac{6}{7}$ English mile, nearly the Scotch and Irish mile, and $\frac{1}{2}$ the German mile.

2. SUPERFICIAL MEASURE.

	Roods.	
The hundredth,	.01	95.69 square feet English.
The tenth,	.1	957.9
The rood,	1.	9579.085
The double acre,	10.	2.199, or say 2.2 acres English.
The square furlong,	100.	22.

3. MEASURE OF CAPACITY.

	Bushels.	Cub. Inches.
The metre,	.001	1.62
The demi-pint,	.01	16.2, about $\frac{1}{24}$ less than the English half-pint,

	Bushels.	Cub. Inches.
The pottle,	.1	162.005, about $\frac{1}{6}$ more than the English pottle.
The bushel,	1.	1620.05506862 / .937531868414884352 cu. feet.

about $\frac{1}{4}$ less than the middle sized English bushel.

The quarter,	10.	9.375, about $\frac{1}{5}$ less than the English quarter.
The last,	100.	93.753, about $\frac{1}{7}$ more than the English last.

4. WEIGHTS.

	Pounds. Avoirdupois.	Troy.
Mite,	.00001	.041 grains, about $\frac{1}{6}$ less than the English mite.
Minim, or demi-grain,	.0001	.4101, about $\frac{1}{6}$ less than half-grain troy.
Carat,	.001	.4101, about $\frac{1}{40}$ more than the carat troy.
Double scruple,	.01	41.017, about $\frac{1}{40}$ more than 2 scruples troy.
Ounce,	.1 / 937531868414884352 oz.	410.170192431 / .85452 oz.

about $\frac{1}{16}$ less than the ounce avoirdupois.

Pound,	1. / 9.375 / .585957417759 lb.	.712101 lb., about $\frac{1}{4}$ less than the pound troy.
Stone,	10. / 93.753 oz. / 5.8595 lb.	7.121 about $\frac{1}{4}$ less than the English stone of 8 lbs. avoirdupois.

Kental,	100.	937.531 oz. 58.5957 lb.	71.21 about $\frac{4}{10}$ less than the English kental of 100 lbs. avoirdupois.
Hogshead,	1000.	9375.318 oz. 585.9574 lb.	712.101

5. COINS.

Dollars.		Troy grains.	
The mill,	.001	Dollar, 1.	375.98934306 pure silver. 34.18084937 alloy.
The cent,	.01		
The dime,	.1	Eagle, 10.	410.17019243

Postscript.

January 10, 1791.

It is scarcely necessary to observe that the measures, weights, and coins, proposed in the preceding report, will be derived altogether from mechanical operations, viz.: A rod, vibrating seconds, divided into five equal parts, one of these sub-divided, and multiplied decimally, for every measure of length, surface, and capacity, and these last filled with water, to determine the weights and coins. The arithmetical estimates in the report were intended only to give an idea of what the new measures, weights, and coins, would be nearly, when compared with the old. The length of the standard or second rod, therefore, was assumed from that of the pendulum; and as there has been small differences in the estimates of the pendulum by different persons,

that of Sir Isaac Newton was taken, the highest authority the world has yet known. But, if even he has erred, the measures, weights, and coins proposed, will not be an atom the more or less. In cubing the new foot, which was estimated at .978728 of an English foot, or 11.744736 English inches, an arithmetical error of an unit happened in the fourth column of decimals, and was repeated in another line in the sixth column, so as to make the result one ten thousandth and one millionth of a foot too much. The thousandth part of this error (about one ten millionth of a foot) consequently fell on the metre of measure, the ounce weight, and the unit of money. In the last it made a difference of about the twenty-fifth part of a grain Troy, in weight, or the ninety-third of a cent in value. As it happened, this error was on the favorable side, so that the detection of it approximates our estimate of the new unit exactly that much nearer to the old, and reduces the difference between them to 34, instead of 38 hundredths of a grain Troy; that is to say, the money unit instead of 375.64 Troy grains of pure silver, as established heretofore, will now be 375.98934306 grains, as far as our knowledge of the length of the second pendulum enables us to judge; and the current of authorities since Sir Isaac Newton's time, gives reason to believe that his estimate is more probably above than below the truth, consequently future corrections of it will bring the estimate of the new unit still nearer to the old.

The numbers in which the arithmetical error before mentioned showed itself in the table, at the end of the report, have been rectified, and the table re-printed.

The head of superficial measures in the last part of the report, is thought to be not sufficiently developed. It is proposed that the rood of land, being 100 feet square, (and nearly a quarter of the present acre,) shall be the unit of land measure. This will naturally be divided into tenths and hundredths, the latter of which will be a square decad. Its multiples will also, of course, be tens, which may be called double acres, and hundreds, which will be equal to a square furlong each. The surveyor's chain should be composed of 100 links of one foot each.

Opinion upon the question whether the President should veto the Bill, declaring that the seat of government shall be transferred to the Potomac, in the year 1790.

July 15, 1790.

A bill having passed both houses of Congress, and being now before the President, declaring that the seat of the federal government shall be transferred to the Potomac in the year 1790, that the session of Congress next ensuing the present shall be held in Philadelphia, to which place the offices shall be transferred before the 1st of December next, a writer in a public paper of July 13, has urged on the con-

sideration of the President, that the Constitution has given to the two houses of Congress the exclusive right to adjourn themselves; that the will of the President mixed with theirs in a decision of this kind, would be an inoperative ingredient, repugnant to the Constitution, and that he ought not to permit them to part, in a single instance, with their constitutional rights; consequently, that he ought to negative the bill.

That is now to be considered.

Every man, and every body of men on earth, possesses the right of self-government. They receive it with their being from the hand of nature. Individuals exercise it by their single will; collections of men by that of their majority; for the law of the *majority* is the natural law of every society of men. When a certain description of men are to transact together a particular business, the times and places of their meeting and separating, depend on their own will; they make a part of the natural right of self-government. This, like all other natural rights, may be abridged or modified in its exercise by their own consent, or by the law of those who depute them, if they meet in the right of others; but as far as it is not abridged or modified, they retain it as a natural right. and may exercise them in what form they please, either exclusively by themselves, or in association with others, or by others altogether, as they shall agree.

Each house of Congress possesses this natural right

of governing itself, and, consequently, of fixing its own times and places of meeting, so far as it has not been abridged by the law of those who employ them, that is to say, by the Constitution. This act manifestly considers them as possessing this right of course, and therefore has nowhere given it to them. In the several different passages where it touches this right, it treats it as an existing thing, not as one called into existence by them. To evince this, every passage of the Constitution shall be quoted, where the right of adjournment is touched; and it will be seen that no one of them pretends to give that right; that, on the contrary, every one is evidently introduced either to enlarge the right where it would be too narrow, to restrain it where, in its natural and full exercise, it might be too large, and lead to inconvenience, to defend it from the latitude of its own phrases, where these were not meant to comprehend it, or to provide for its exercise by others, when they cannot exercise it themselves.

"A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members." Art. 1, Sec. 5. A majority of every collection of men being naturally necessary to constitute its will, and it being frequently to happen that a majority is not assembled, it was necessary to enlarge the natural right by giving to "a smaller number than a majority" a right to compel the attendance of the absent

members, and, in the meantime, to adjourn from day to day. This clause, then, does not pretend to give to a majority a right which it knew that majority would have of themselves, but to a number *less than a majority*, a right to which it knew that lesser number could not have of themselves.

"Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting." Ibid. Each house exercising separately its natural right to meet when and where it should think best, it might happen that the two houses would separate either in time or place, which would be inconvenient. It was necessary, therefore, to keep them together by restraining their natural right of deciding on separate times and places, and by requiring a concurrence of will.

But, as it might happen that obstinacy, or a difference of object, might prevent this concurrence, it goes on to take from them, in that instance, the right of adjournment altogether, and to transfer it to another, by declaring, Art. 2, Sec. 3, that "in case of disagreement between the two houses, with respect to the time of adjournment, the President may adjourn them to such time as he shall think proper."

These clauses, then, do not import a gift, to the two houses, of a general right of adjournment, which it was known they would have without that gift, but to restrain or abrogate the right it was known they

would have, in an instance where, exercised in its full extent, it might lead to inconvenience, and to give that right to another who would not naturally have had it. It also gives to the President a right, which he otherwise would not have had, "to convene both houses, or either of them, on extraordinary occasions." Thus substituting the will of another, where they are not in a situation to exercise their own.

"Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment), shall be presented to the President for his approbation, &c." Art. 1, Sec. 7. The latitude of the general words here used would have subjected the natural right of adjournment of the two houses to the will of the President, which was not intended. They therefore expressly "except questions of adjournment" out of their operation. They do not here give a right of adjournment, which it was known would exist without their gift, but they defend the existing right against the latitude of their own phrases, in a case where there was no good reason to abridge it. The exception admits they will have the right of adjournment, without pointing out the source from which they will derive it.

These are all the passages of the Constitution (one only excepted, which shall be presently cited) where the right of adjournment is touched; and it is evident that none of these are introduced to give that right; but every one supposes it to be existing, and provides

some specific modification for cases where either a defeat in the natural right, or a too full use of it, would occasion inconvenience.

The right of adjournment, then, is not given by the Constitution, and consequently it may be modified by law without interfering with that instrument. It is a natural right, and, like all other natural rights, may be abridged or regulated in its exercise by law; and the concurrence of the third branch in any law regulating its exercise is so efficient an ingredient in that law, that the right cannot be otherwise exercised but after a repeal by a new law. The express terms of the Constitution itself show that this right may be modified *by law*, when, in Art. 1, Sec. 4, (the only remaining passage on the subject not yet quoted) it says, "The Congress shall assemble at least once in every year, and such meeting shall be the first Monday in December, unless they shall, *by law*, appoint a different day." Then another day may be appointed *by law;* and the President's assent is an efficient ingredient in that law. Nay further, they cannot adjourn over the first Monday of December but by *a law*. This is another constitutional abridgment of their natural right of adjournment; and completing our review of all the clauses in the Constitution which touch that right, authorizes us to say no part of that instrument gives it; and that the houses hold it, not from the Constitution, but from nature.

A consequence of this is, that the houses may, by

a joint resolution, remove themselves from place to place, because it is a part of their right of self-government; but that as the right of self-government does not comprehend the government of others, the two houses cannot, by a joint resolution of their majorities only, remove the Executive and Judiciary from place to place. These branches possessing also the rights of self-government from nature, cannot be controlled in the exercise of them but by a law, passed in the forms of the Constitution. The clause of the bill in question, therefore, was necessary to be put into the form of a law, and to be submitted to the President, so far as it proposes to effect the removal of the Executive and Judiciary to Philadelphia. So far as respects the removal of the present houses of legislation thither, it was not necessary to be submitted to the President; but such a submission is not repugnant to the Constitution. On the contrary, if he concurs, it will so far fix the next session of Congress at Philadelphia that it cannot be changed but by a regular law.

The sense of Congress itself is always respectable authority. It has been given very remarkably on the present subject. The address to the President in the paper of the 13th is a complete digest of all the arguments urged on the floor of the Representatives against the constitutionality of the bill now before the President; and they were overruled by a majority of that house, comprehending the delegation of all the States south of the Hudson, except South

Carolina. At the last session of Congress, when the bill for remaining a certain term at New York, and then removing to Susquehanna or Germantown was objected to on the same ground, the objection was overruled by a majority comprehending the delegations of the northern half of the union with that of South Carolina. So that the sense of every State in the union has been expressed, by its delegation, against this objection South Carolina excepted, and excepting also Rhode Island, which has never yet had a delegation in place to vote on the question. In both these instances, the Senate concurred with the majority of the Representatives. The sense of the two houses is stronger authority in this case, as it is given against their own supposed privilege.

It would be as tedious, as it is unnecessary, to take up and discuss one by one, the objections proposed in the paper of July 13. Every one of them is founded on the supposition that the two houses hold their right of adjournment from the Constitution. This error being corrected, the objections founded on it fall of themselves.

It would also be work of mere supererogation to show that, granting what this writer takes for granted (that the President's assent would be an inoperative ingredient, because excluded by the Constitution, as he says), yet the particular views of the writer would be frustrated, for on every hypothesis of what the President may do, Congress must go to Philadelphia. 1. If he assents to the bill, that

assent makes good law of the part relative to the Potomac; and the part for holding the next session at Philadelphia is good, either as an ordinance, or a vote of the two houses, containing a complete declaration of their will in a case where it is competent to the object; so that they must go to Philadelphia in that case. 2. If he dissents from the bill it annuls the part relative to the Potomac; but as to the clause for adjourning to Philadelphia, his dissent being as inefficient as his assent, it remains a good ordinance or vote, of the two houses for going thither, and consequently they must go in this case also. 3. If the President withholds his will out of the bill altogether, by a ten days' silence, then the part relative to the Potomac becomes a good law without his will, and that relative to Philadelphia is good also, either as a law, or an ordinance, or a vote of the two houses; and consequently in this case also they go to Philadelphia.

Opinion respecting the expenses and salaries of foreign Ministers.

July 17, 1790.

The bill on the intercourse with foreign nations restrains the President from allowing to Ministers Plenipotentiary, or to Congress, more than $9,000, and $4,500 for their "personal services, and other expenses." This definition of the objects for which the allowance is provided appearing vague, the Sec-

retary of State thought it his duty to confer with the gentlemen heretofore employed as ministers in Europe, to obtain from them, in aid of his own information, an enumeration of the expenses incident to these offices, and their opinion which of them would be included within the fixed salary, and which would be entitled to be charged separately. He, therefore, asked a conference with the Vice-President, who was acquainted with the residences of London and the Hague, and the Chief Justice, who was acquainted with that of Madrid, which took place yesterday.

The Vice-President, Chief Justice, and Secretary of State, concurred in the opinion that the salaries named by the act are much below those of the same grade at the courts of Europe, and less than the public good requires they should be. Consequently, that the expenses not included within the definition of the law, should be allowed as an additional charge.

1. *Couriers, Gazettes, Translating necessary papers, Printing necessary papers, Aids to poor Americans.*—All three agreed that these ought to be allowed as additional charges, not included within the meaning of the phrase, "his personal services, and other expenses."

2. *Postage, Stationery, Court-fees.*—One of the gentlemen being of opinion that the phrase "personal services, and other expenses," was meant to comprehend all the *ordinary expenses* of the office,

considered this second class of expenses as *ordinary*, and therefore included in the fixed salary. The first class before mentioned, he had viewed as *extraordinary*. The other two gentlemen were of opinion this second class was also out of the definition, and might be allowed in addition to the salary. One of them, particularly, considered the phrase as meaning "personal services and personal expenses," that is, expenses for his personal accommodation, comforts, and maintenance. This second class of expenses is not within that description.

3. *Ceremonies;* such as diplomatic and public dinners, galas, and illuminations. One gentleman only was of opinion these might be allowed.

The expenses of the first class may probably amount to about fifty dollars a year. Those of the second, to about four or five hundred dollars. Those of the third are so different at different courts, and so indefinite in all of them, that no general estimate can be proposed.

The Secretary of State thought it his duty to lay this information before the President, supposing it might be satisfactory to himself, as well as to the diplomatic gentlemen, to leave nothing uncertain as to their allowances; and because, too, a previous determination is in some degree necessary to the forming an estimate which may not exceed the whole sum appropriated.

The Secretary of State has also consulted on the subject of the Morocco consulship, with Mr. Barclay,

who furnished him with the note, of which a copy accompanies this. Considering all circumstances, Mr. Barclay is of opinion, we had better have only a consul there, and that he should be the one now residing at Morocco, because, as secretary to the Emperor, he sees him every day, and possesses his ear. He is of opinion six hundred dollars a year might suffice for him, and that it should be proposed to him not as a salary, but as a sum in gross intended to cover his expenses, and to save the trouble of keeping accounts. That this consul should be authorized to appoint agents in the seaports, who would be sufficiently paid by the consignments of vessels. He thinks the consul at Morocco would most conveniently receive his allowance through the channel of our Chargé at Madrid, on whom, also, this consulate had better be made dependent for instructions, information, and correspondence, because of the daily intercourse between Morocco and Cadiz.

The Secretary of State, on a view of Mr. Barclay's note, very much doubts the sufficiency of the sum of six hundred dollars; he supposes a little money there may save a great deal; but he is unable to propose any specific augmentation till a view of the whole diplomatic establishments and its expenses, may furnish better grounds for it.

Appended to this note, were the following estimates of the expenses of foreign ministers, and of the probable calls on our foreign fund, from July 1, 1790, to July 1, 1791:

Estimate of the Expenses of a Minister Plenipotentiary.

	July 19, 1790.
Minister Plenipotentiary, his salary	$9,000
His outfit, suppose it to happen once in seven years, will average	1,285
His return at a quarter's salary will average	321
Extras, viz.: Gazettes, Translating, Printing, Aids to poor American sailors, Couriers, and Postage, about	350
His Secretary	1,350
	$12,396

Estimate for a Chargé des Affaires.

Chargé des Affaires, his salary	$4,500
His outfit, once in seven years, equal to an annual sum of	643
His return at a quarter's salary, do.	161
Extras, as above	350
	$5,654

The Agent at the Hague, his salary	$1,300
Extras	100
	$1,400

Estimate of the Annual Expenses of the Establishment proposed.

France, a Minister Plenipotentiary	$12,306
London, do. do.	12,306
Madrid, a Chargé des Affaires	5,654
Lisbon, do. do. do.	5,654
Hague, an agent	1,400
Morocco, a consul	1,800
Presents to foreign ministers on taking leave, at $1,000 each, more or less, according to their favor and time. There will be five of them. If exchanged once in seven years, it will be annually	715
	$39,835

Estimate of the probable calls on our foreign fund from July 1, 1790, when the act for foreign intercourse passed, to July 1, 1791.

France, a Minister Plenipotentiary, his outfit ...	$9,000		
His salary, suppose it to commence August 1st...	8,250		
Extras	320		
Secretary	1,237.5	—$18,807.5	
Chargé, suppose him to remain till November 1st.			
Salary	1,509		
Extras	117		
His return, a quarter's salary	1,125	—	2,742
Madrid, a Chargé, his salary	4,500		
Extras	350	—	4,850
Lisbon, a Chargé, (or Resident,) his outfit	4,500		
His salary, suppose it to commence January 1, 1791	2,250		
Extras	175	—	6,925
London, an Agent, suppose to commence October 1st, at $1,350 salary	1,012.5		
Extras, (at $100 a year)	75	—	1,087.5
Hague, an Agent	1,400		
Morocco, Consul	1,800	—	3,200
Presents to foreign Ministers. The dye about ..	500		
Two medals and chains	2,000	—	2,500
			$40,112

Opinion in regard to the continuance of the monopoly of the commerce of the Creek nation, enjoyed by Col. McGillivray.

July 29th, 1790.

Colonel McGillivray, with a company of British merchants, having hitherto enjoyed a monopoly of the commerce of the Creek nation, with a right of importing their goods duty free, and considering these privileges as the principal sources of his power over that nation, is unwilling to enter into treaty

with us, unless they can be continued to him. And the question is how this may be done consistently with our laws, and so as to avoid just complaints from those of our citizens who would wish to participate of the trade?

Our citizens, at this time, are not permitted to trade in that nation. The nation has a right to give us their peace, and to withhold their commerce, to place it under whatever monopolies or regulations they please. If they insist that only Colonel McGillivray and his company shall be permitted to trade among them, we have no right to say the contrary. We shall even gain some advantage in substituting citizens of the United States instead of British subjects, as associates of Colonel McGillivray, and excluding both British and Spaniards from the country.

Suppose, then, it be expressly stipulated by treaty, that no person be permitted to trade in the Creek country, without a license from the President, that but a fixed number shall be permitted to trade there at all, and that the goods imported for and sent to the Creek nation, shall be duty free. It may further be either expressed that the person licensed shall be approved by the leader or leaders of the nation, or without this, it may be understood between the President and McGillivray that the stipulated number of licenses shall be sent to him blank, to fill up. A treaty made by the President, with the concurrence of two-thirds of the Senate, is a law of the land,

and a law of superior order, because it not only repeals past laws, but cannot itself be repealed by future ones.[1] The treaty, then, will legally control the duty acts, and the acts for licensing traders, in this particular instance. When a citizen applies for a license, who is not of McGillivray's partnership, he will be told that but a given number could be licensed by the treaty, and that the number is full. It seems that in this way no law will be violated, and no just cause of complaint will be given; on the contrary, the treaty will have bettered our situation, though not in the full degree which might have been wished.

Opinion respecting our foreign debt.

August 26, 1790.

On consideration of the letter of our banker, of January 25th, 1790, the Secretary of the Treasury's answer to it, and the draught of powers and instructions to him, I am of opinion, as I always have been, that the purchase of our debt to France by private speculators, would have been an operation extremely injurious to our credit; and that the consequence

[1] At a later period, upon reviewing this opinion, the following note was appended by Mr. Jefferson: "Unless with the consent or default of the other contracting party. It may well be doubted, too, and perhaps denied, that the treaty power can control a law. The question here proposed was then of the first impression. Subsequent investigations have proved that the contrary position is the more general truth.

foreseen by our banker, that the purchasers would have been obliged, in order to make good their payments, to deluge the markets of Amsterdam with American paper of all sorts, and to sell it any price, was a probable one. And the more so, as we know that the particular individuals who were engaged in that speculation, possess no means of their own adequate to the payments they would have had to make. While we must not doubt that these motives, together with a proper regard for the credit of the United States, had real and full weight with our bankers, towards inducing them to counterwork these private speculations; yet, to ascribe their industry in this business wholly to these motives, might lead to a too great and dangerous confidence in them. It was obviously their interest to defeat all such speculations, because they tended to take out of their hands, or at least to divide with them, the profits of the great operation of transferring the French debt to Amsterdam, an object of first rate magnitude to them, and on the undivided enjoyments of which they might count, if private speculators could be baffled. It has been a contest of dexterity and cunning, in which our champions have obtained the victory. The manœuvre of opening a loan of three millions of florins, has, on the whole, been useful to the United States, and though unauthorized, I think should be confirmed. The measure proposed by the Secretary of the Treasury, of sending a superintendent of their future opera-

tions, will effectually prevent their doing the like again, and the funding laws leave no danger that such an expedient might at any future time be useful to us.

The report of the Secretary of the Treasury, and the draught of instructions, present this plan to view: First, to borrow on the best terms we can, not exceeding those limited by the law, such a sum as may answer all demands of principal or interest of the foreign debts, due, or to become due before the end of 1791. [This I think he supposes will be about three and a half millions of dollars.] Second, to consider two of the three millions of florins already borrowed by our bankers as, so far, an execution of this operation; consequently, that there will remain but about two and a half millions of dollars to be borrowed on the old terms. Third, to borrow no more as yet, towards completing the transfer of the French debt to Amsterdam, unless we can do it on more advantageous terms. Fourth, to consider the third millions of florins already borrowed by our bankers, as, so far, an execution of the powers given the President to borrow two millions of dollars, by the act of the 12th of August. The whole of this appears to me to be wise. If the third million be employed in buying up our *foreign paper*, on the exchange of Amsterdam, by creating a demand for that species of paper, it will excite a cupidity in the monied men to obtain more of it by new loans, and consequently enable us to borrow more and on lower

terms. The saving of interest, too, on the sum so to be bought, may be applied in buying up more principal, and thereby keep this salutary operation going.

I would only take the liberty of suggesting the insertion of some such clause as the following, into the instructions: "The agents to be employed shall never open a loan for more than one million of dollars at a time, nor open a new loan till the preceding one has been filled, and expressly approved by the President of the United States." A new man, alighting on the exchange of Amsterdam, with powers to borrow twelve millions of dollars, will be immediately beset with bankers and brokers, who will pour into his ear, from the most unsuspected quarters, such informations and suspicions as may lead him exactly into their snares. So wonderfully dexterous are they in wrapping up and complicating their propositions, they will make it evident, even to a clear-headed man, (not in the habit of this business,) that two and two make five. The agent, therefore, should be guarded, even against himself, by putting it out of his power to extend the effect of any erroneous calculation beyond one million of dollars. Were he able, under a delusive calculation, to commit such a sum as twelve millions of dollars, what would be said of the government? Our bankers told me themselves that they would not choose, in the conduct of this great loan, to open for more than two or three millions of florins at a time, and certainly

never for more than five. By contracting for only one million of dollars at a time, the agent will have frequent occasions of trying to better the terms. I dare say that this caution, though not expressed in the instructions, is intended by the Secretary of the Treasury to be carried into their execution. But, perhaps, it will be desirable for the President, that his sense of it also should be expressed in writing.

Opinion upon the question what the answer of the President should be in case Lord Dorchester should apply for permission to march troops through the territory of the United States, from Detroit to the Mississippi.

GEORGE WASHINGTON TO THOMAS JEFFERSON.

UNITED STATES, August 27, 1790.

Provided the dispute between Great Britain and Spain should come to the decision of arms, from a variety of circumstances (individually unimportant and inconclusive, but very much the reverse when compared and combined), there is no doubt in my mind, that New Orleans, and the Spanish posts above it on the Mississippi, will be among the first attempts of the former; and that the reduction of them will be undertaken by a combined operation from Detroit.

The *consequences* of having so formidable and enterprizing a people as the British on both our flanks and rear, with their navy in front, as they respect our western settlements which may be seduced thereby, as they regard the security of the Union and its commerce with the West Indies, are too obvious to need enumeration.

What then should be the answer of the Executive of the United States to Lord Dorchester, in case he should apply for permission to march troops through the territory of the said States from Detroit to the Mississippi?

What notice ought be taken of the measure, if it should be under-

taken without leave, which is the most probable proceeding of the two?

The opinion of the Secretary of State is requested in writing upon the above statements.

Opinion on the questions stated in the President's note of August 27th, 1790.

August 28, 1790.

I am so deeply impressed with the magnitude of the dangers which will attend our government, if Louisiana and the Floridas be added to the British empire, that, in my opinion, we ought to make ourselves parties in the *general war* expected to take place, should this be the only means of preventing the calamity.

But I think we should defer this step as long as possible; because war is full of chances, which may relieve us from the necessity of interfering; and if necessary, still the later we interfere, the better we shall be prepared.

It is often indeed more easy to prevent the capture of a place, than to retake it. Should it be so in the case in question, the difference between the two operations of preventing and retaking, will not be so costly as two, three, or four years more of war.

So that I am for preserving neutrality as long, and entering into the war as late, as possible.

If this be the best course, it decides, in a good degree, what should be our conduct, if the British ask leave to march troops through our territory, or march them without leave.

It is well enough agreed, in the laws of nations, that for a neutral power to give or refuse permission to the troops of either belligerent party to pass through their territory, is no breach of neutrality, provided the same refusal or permission be extended to the other party.

If we give leave of passage then to the British troops, Spain will have no just cause of complaint against us, provided we extend the same leave to her when demanded.

If we refuse, (as indeed we have a right to do,) and the troops should pass notwithstanding, of which there can be little doubt, we shall stand committed. For either we must enter immediately into the war, or pocket an acknowledged insult in the face of the world; and one insult pocketed soon produces another.

There is indeed a middle course, which I should be inclined to prefer; that is, to avoid giving any answer. They will proceed notwithstanding, but to do this under our silence, will admit of palliation, and produce apologies, from military necessity; and will leave us free to pass it over without dishonor, or to make it a handle of quarrel hereafter, if we should have use for it as such. But, if we are obliged to give an answer, I think the occasion not such as should induce us to hazard that answer which might commit us to the war at so early a stage of it; and therefore that the passage should be permitted.

If they should pass without having asked leave,

I should be for expressing our dissatisfaction to the British court, and keeping alive an altercation on the subject, till events should decide whether it is most expedient to accept their apologies, or profit of the aggression as a cause of war.

Opinion on the question whether it will be expedient to notify to Lord Dorchester the real object of the expedition preparing by Governor St. Clair.

August 29, 1790.

On considering more fully the question whether it will be expedient to notify to Lord Dorchester the real object of the expedition preparing by Governor St. Clair, I still think it will not be expedient. For, if the notification be early, he will get the Indians out of the way, and defeat our object. If it be so late as not to leave him time to withdraw them before our stroke be struck, it will then be so late also as not to leave him time to withdraw any secret aids he may have sent them. And the notification will betray to him that he may go on without fear in his expedition against the Spaniards, and for which he may yet have sufficient time after our expedition is over. On the other hand, if he should suspect our preparations are to prevent his passing our territory, these suspicions may induce him to decline his expedition, as, even should he think he could either force or steal a passage, he would not divide his troops, leaving (as he would suppose) an

enemy between them able to take those he should leave, and cut off the return of those he should carry. These suspicions, too, would mislead both him and the Indians, and so enable us to take the latter more completely by surprise, and prevent him from sending secret aid to those whom he would not suppose the objects of the enterprise; thus effecting a double purpose of preventing his enterprise, and securing our own. Might it not even be expedient, with a view to deter his enterprise, to instruct Governor St. Clair either to continue his pursuit of the Indians till the season be too far advanced for Lord Dorchester to move; or, on disbanding his militia, to give them general orders (which might reach the ears of Lord Dorchester) to be ready to assemble at a moment's warning, though no such assembly be really intended?

Always taking care neither to say nor do, against their passage, what might directly commit either our peace or honor.

Opinion on proceedings to be had under the Residence act.

November 29, 1790.

A territory not exceeding ten miles square (or, I presume, one hundred square miles in any form) to be located by metes and bounds.

Three commissioners to be appointed. I suppose them not entitled to any salary.

[If they live near the place they may, in some instances, be influenced by self interest, and partialities; but they will push the work with zeal. If they are from a distance, and northwardly, they will be more impartial, but may affect delays.]

The commissioners to purchase or accept "such quantity of land on the east side of the river as the President shall deem *proper for the United States*," viz., for the federal Capitol, the offices, the President's house and gardens, the town house, market house, public walks and hospital. For the President's house, offices and gardens, I should think two squares should be consolidated. For the Capitol and offices, one square. For the market, one square. For the public walks, nine squares consolidated.

The expression "such quantity of land as the President shall deem *proper for the United States*," is vague. It may therefore be extended to the acceptance or purchase of land enough for the town; and I have no doubt it is the wish, and perhaps expectation. In that case, it will be to be laid out in lots and streets. I should propose these to be at right angles, as in Philadelphia, and that no street be narrower than one hundred feet, with foot ways of fifteen feet. Where a street is long and level, it might be one hundred and twenty feet wide. I should prefer squares of at least two hundred yards every way, which will be about eight acres each.

The commissioners should have some taste in architecture, because they may have to decide between different plans.

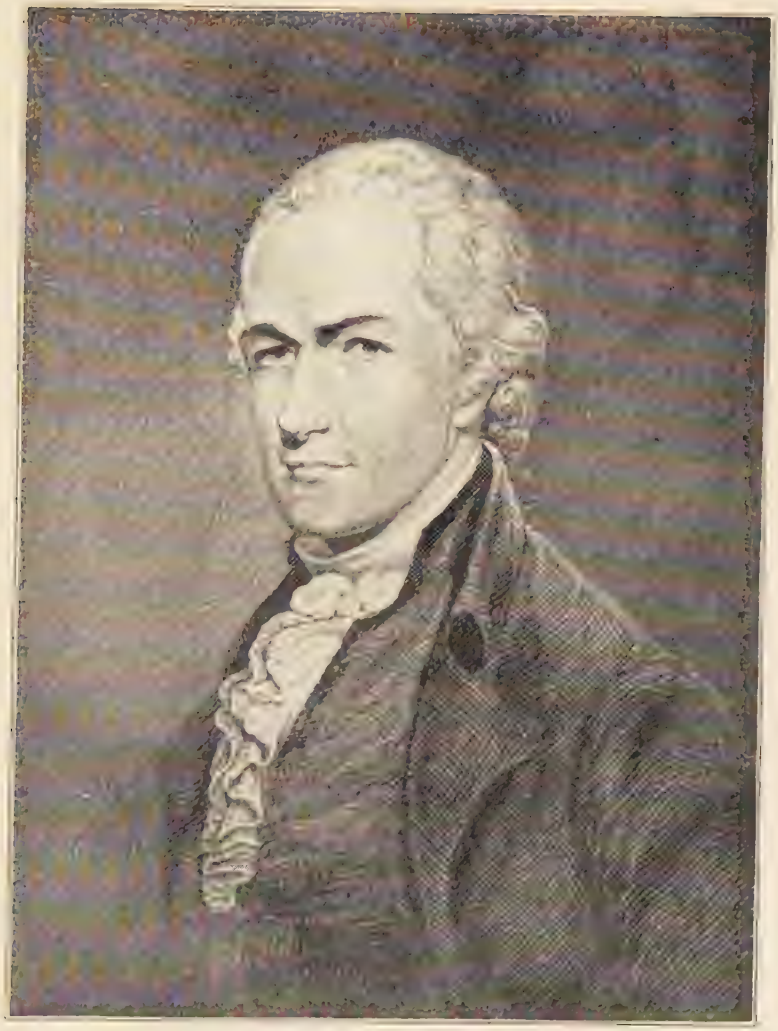
They will, however, be subject to the President's direction in every point.

When the President shall have made up his mind as to the spot for the town, would there be any impropriety in his saying to the neighboring land holders, "I will fix the town here if you will join and purchase and give the lands." They may well afford it by the increase of value it will give to their own circumjacent lands.

The lots to be sold out in breadths of fifty feet; their depths to extend to the diagonal of the square.

I doubt much whether the obligation to build the houses at a given distance from the street, contributes to its beauty. It produces a disgusting monotony; all persons make this complaint against Philadelphia. The contrary practice varies the appearance, and is much more convenient to the inhabitants.

In Paris it is forbidden to build a house beyond a given height; and it is admitted to be a good restriction. It keeps down the price of ground, keeps the houses low and convenient, and the streets light and airy. Fires are much more manageable where houses are low.



Report by the Secretary of State to the President of the United States on the Report of the Secretary of the Government north-west of the Ohio.

December 14, 1790.

The Secretary of State having had under his consideration the report made by the Secretary of the Government north-west of the Ohio, of his proceedings for carrying into effect the resolution of Congress of August 29th, 1788, respecting the lands of the inhabitants of Port Vincennes, makes the following report thereon to the President of the United States:

The resolution of Congress of August 29th, 1788, had confirmed in their possessions and titles the French and Canadian inhabitants and other settlers at that post, who, in or before the year 1783, had settled there, and had professed themselves citizens of the United States or any of them, and had made a donation to every head of a family, of the same description of four hundred acres of land, part of a square to be laid off adjoining the improvements at the post.

The Secretary of the north-western government, in the absence of the Governor, has carried this resolution into effect, as to all the claims to which he thought it could be clearly applied: there remain, however, the following description of cases, on which he asks further instructions:

1. Certain cases within the letter of the resolu-

tion, but rendered doubtful by the condition annexed, to the grants of lands in the Illinois country. The cases of these claimants, fifteen in number, are specially stated in the papers hereto annexed, number 2, and the lands are laid off for them but remain ungranted till further orders.

2. Certain persons who, by removals from one part of the territory to another, are not of the letter of the resolutions, but within its equity, as they conceive.

3. Certain heads of families, who became such soon after the year 1783, who petition for a participation of the donation, and urge extraordinary militia service to which they are exposed.

4. One hundred and fifty acres of land within the village granted under the former government of that country, to the Piankeshaw Indians, and on their removal sold by them in parcels to individual inhabitants, who in some instances have highly improved them both before and since the year 1783.

5. Lands granted both before and after 1783, by authority from the commandant of the post, who, according to the usage under the French and British governments, thinking himself authorized to grant lands, delegated that authority to a court of civil and criminal jurisdiction, whose grants before 1783, amount to twenty-six thousand acres, and between that and 1787, (when the practice was stopped,) to twenty-two thousand acres. They are generally in

parcels from four hundred acres down to the size of house lots; and some of them under considerable improvement. Some of the tenants urge that they were induced by the court itself to come and settle these lands under assurance of their authority to grant them, and that a loss of the lands and improvements will involve them in ruin. Besides these small grants, there are some much larger, sometimes of many leagues square, which a sense of their impropriety has prevented the grantees from bringing forward. Many pretended grants, too, of this class are believed to be forgeries, and are, therefore, to be guarded against.

6. Two thousand four hundred acres of good land, and three thousand acres of sunken land, held under the French, British, and American governments, as commons for the use of the inhabitants of the village generally, and for thirty years past kept under inclosure for these purposes.

The legislature alone being competent to authorize the grant of lands in cases as yet unprovided for by the laws. The Secretary of State is of opinion that the report of the Secretary of the north-western government, with the papers therein referred to, should be laid before Congress for their determination. Authentic copies of them are herewith enclosed to the President of the United States.

Opinion on certain proceedings of the Executive in the North-western Territory.

December 14, 1790.

The Secretary of State having had under his consideration, the journal of the proceedings of the Executive in the North-western Territory, thinks it his duty to extract therefrom, for the notice of the President of the United States, the articles of April 25th, June 6th, 28th, and 29th. Some of which are hereto annexed.

Conceiving that the regulations, purported in these articles, are beyond the competence of the executive of the said government, that they amount, in fact, to laws, and as such, could only flow from its regular legislature. That it is the duty of the general government to guard its subordinate members from the encroachments of each other, even when they are made through error or inadvertence, and to cover its citizens from the exercise of powers not authorized by the law. The Secretary of State is of opinion that the said articles be laid before the Attorney General for consideration, and if he finds them to be against law, that his opinion be communicated to the Governor of the North-western Territory, for his future conduct.

The following are the extracts alluded to above:

Extracts from the Journal of the Proceedings in the Executive Department of government in the Territory of the United States, north-west of the Ohio, reported to the President of the United States, by Winthrop Sargent, Secretary.

April 25, 1790.—The Governor was pleased to issue the following order, viz.: All the inhabitants are forbidden to entertain any strangers, white, Indian, or negro, let them come from whatsoever place, without acquainting the officer commanding the troops, of the names of such strangers, and the place from whence they came. And every stranger arriving at Cahokia, is ordered to present himself to said officer within two hours after his arrival, on pain of imprisonment.

June 6, 1790.—The Governor at Kaskaskias, was pleased to make the following proclamation:

The practice of selling spirituous liquors to the Indians in the villages being attended with very ill consequences, it is expressly prohibited; and all and every person transgressing this order, will be liable to be tried and fined at the pleasure of the court of quarter sessions of the peace. And as it may be necessary that spirituous liquors should be vended in small quantities to white travellers and others; to prevent all danger of imposition and extortion, no person whosoever shall sell in any of the villages or their environs, spirituous liquors to any white person, traveller, or inhabitant, in any quantity less than one quart at one time, without obtaining a license from the Governor, which license shall not be granted but upon the recommendation of the Justices of the Peace in their court of quarter sessions, and on his or their giving security in the sum of two hundred dollars, to abide by all the regulations made by law respecting retailers of spirituous liquors, and the orders of the said court of quarter sessions in the premises in the meantime. And for every offence, he or they shall be liable to prosecution by indictment and fine at the pleasure of the court, and to the forfeiture of their bonds.

Nor shall any person undertake or exercise the calling or occupation of an Inn-holder or Tavern-keeper, without obtaining in the same manner, and under the same restrictions and penalties, a license for so doing.

Proclamation.—Whereas, his Excellency, Arthur St. Clair, Esq., Governor and Commander-in-chief of this Territory, did by proclamation given at the Kaskaskias the 10th instant, strictly prohibit all persons, not citizens of the United States or the Territory, from hunting or killing any kind of game within the same, either for the flesh or

skins, upon penalty *not only* of forfeiting the flesh and skins which they might acquire, but also prosecution and punishment as trespassers.

And it appearing to me to be particularly essential to the interests of this country, that an observance of the order and prohibition should be obtained, I do hereby call upon all civil and military officers, who now are, or hereafter may be appointed, to use their best endeavors for detecting and bringing to justice every person who shall violate the same. And, whereas, it appears to me to be expedient that government should receive information of all characters, foreigners and others, coming into the Territory, I do hereby order and direct that any person arriving at *this*, or any of the military posts of the United States within the same, should present himself to the commanding officer of the troops in two hours next after his arrival; and the inhabitants are hereby forbidden to entertain such characters, whether whites, Indians, or negroes, without immediate information thereof to the said commanding officers.

Given under my hand and seal at the town of Post Vincennes, and county of Knox, this 28th day of June, A. D. 1790, and of the Independence of the United States, the fourteenth.

(Signed,) WINTHROP SARGENT.

June 29, 1790.—It is to be considered as a standing order hereafter, that no person enrolled in the militia shall leave the village or stations, for a longer absence than twenty-four hours, without informing him (Mayor Hamtramck) or the commanding officer for the time being, of their intention. And all intelligence or discoveries of Indians, to be immediately reported.

(Signed,) WINTHROP SARGENT.

Report on certain letters from the President to Mr. Gouverneur Morris, and from Mr. Morris to the President, relative to our difficulties with England—1790.

December 15, 1790.

The Secretary of State having had under consideration the two letters of October 13th, 1789, from

the President of the United States, to Mr. Gouverneur Morris; and those of Mr. Morris to the President, of January 22d, April 7th, 13th, May 1st, 29th, July 3d, August 16th, and September 18th, referred to him by the President, makes the following report thereon:

The President's letter of January 22d, authorized Mr. Morris to enter into conference with the British ministers in order to discover their sentiments on the following subjects:

1. Their retention of the western posts contrary to the treaty of peace.

2. Indemnification for the negroes carried off against the stipulations of the same treaty.

3. A treaty for the regulation of the commerce between the two countries.

4. The exchange of a minister.

The letters of Mr. Morris before mentioned, state the communications, oral and written, which have passed between him and the ministers; and from these the Secretary of State draws the following inferences:

1. That the British court is decided not to surrender the posts in any event; and that they will urge as a pretext that though our courts of justice are now open to British subjects, they were so long shut after the peace as to have defeated irremedially the recovery of debts in many cases. They suggest, indeed, the idea of an indemnification on our part. But probably were we disposed to admit their right

to indemnification, they would take care to set it so high as to insure a disagreement.

2. That as to indemnification for the negroes, their measures for concealing them were in the first instance so efficacious, as to reduce our demand for them, so far as we can support it by direct proof, to be very small indeed. Its smallness seems to have kept it out of discussion. Were other difficulties removed, they would probably make none of this article.

3. That they equivocate on every proposal of a treaty of commerce, and authorize in their communications with Mr. Morris the same conclusions which have been drawn from those they had had from time to time with Mr. Adams, and those through Mayor Beckwith; to wit, that they do not mean to submit their present advantages in commerce to the risk which might attend a discussion of them, whereon some reciprocity could not fail to be demanded. Unless, indeed, we would agree to make it a treaty of *alliance* as well as *commerce*, so as to undermine our obligations with France. This method of stripping that rival nation of its alliances, they tried successfully with Holland, endeavored at it with Spain, and have plainly and repeatedly suggested to us. For this they would probably relax some of the rigors they exercise against our commerce.

4. That as to a minister, their Secretary for Foreign Affairs is disposed to exchange one, but meets

with opposition in his cabinet, so as to render the issue uncertain.

From the whole of which, the Secretary of State is of opinion that Mr. Morris' letters remove any doubts which might have been entertained as to the intentions and dispositions of the British cabinet.

That it would be dishonorable to the United States, useless and even injurious, to renew the propositions for a treaty of commerce, or for the exchange of a minister; and that these subjects should now remain dormant, till they shall be brought forward earnestly by them.

That the demands of the posts, and of indemnification for the negroes, should not be again made till we are in readiness to do ourselves the justice which may be refused.

That Mr. Morris should be informed that he has fulfilled the object of his agency to the satisfaction of the President, inasmuch as he has enabled him to judge of the real views of the British cabinet, and that it is his pleasure that the matters committed to him be left in the situation in which the letter shall find them.

That a proper compensation be given to Mr. Morris for his services herein, which having been begun on the 22d of January, and ended the 18th of September, comprehend a space of near eight months; that the allowance to an agent may be properly fixed anywhere between the half and the whole of what is allowed to a Chargé d'Affaires;

which, according to the establishment of the United States at the time of this appointment, was at the rate of $3,000 a year; consequently, that such a sum of between one and two thousand dollars be allowed him as the President shall deem proper, on a view of the interference which this agency may have had with Mr. Morris' private pursuits in Europe.

Report relative to the Mediterranean trade.

December 28, 1790.

The Secretary of State, to whom was referred by the House of Representatives so much of the speech of the President of the United States to both Houses of Congress, as relates to the trade of the United States in the Mediterranean, with instructions to report thereupon to the House, has had the same under consideration, and thereupon makes the following report:

The loss of the records of the custom houses in several of the States, which took place about the commencement and during the course of the late war, has deprived us of official information, as to the extent of our commerce and navigation in the Mediterranean sea. According to the best which may be obtained from other sources meriting respect, it may be concluded that about one-sixth of the wheat and flour exported from the United States, and about one-fourth in value of their dried and pickled fish, and some rice, found their best markets in the

Mediterranean ports; that these articles constituted the principal part of what we sent into that sea; that that commerce loaded outwards from eighty to one hundred ships, annually, of twenty thousand tons, navigated by about twelve hundred seamen. It was abandoned early in the war. And after the peace which ensued, it was obvious to our merchants, that their adventures into that sea would be exposed to the depredations of the piratical States on the coast of Barbary. Congress, too, was very early attentive to this danger, and by a commission of the 12th of May, 1784, authorized certain persons, named ministers plenipotentiary for that purpose, to conclude treaties of peace and amity with the Barbary powers. And it being afterwards found more expedient that the negotiations should be carried on at the residences of those powers, Congress, by a farther commission, bearing date the 11th of March, 1785, empowered the same ministers plenipotentiary to appoint agents to repair to the said powers at their proper residences, and there to negotiate such treaties. The whole expenses were limited to eighty thousand dollars. Agents were accordingly sent to Morocco and Algiers.

Before the appointment of the one to Morocco, it was known that a cruiser of that State had taken a vessel of the United States; and that the Emperor, on the friendly interposition of the court of Madrid, had liberated the crew, and made restitution of the vessel and cargo, as far as their condition admitted.

This was a happy presage of the liberal treaty he afterwards concluded with our agent, still under the friendly mediation of Spain, and at an expense of between nine and ten thousand dollars only. On his death, which has taken place not long since, it becomes necessary, according to their usage, to obtain immediately a recognition of the treaty by his successor, and consequently, to make provision for the expenses which may attend it. The amount of the former furnishes one ground of estimate; but the character and dispositions of the successor, which are unknown here, may influence it materially. The friendship of this power is important, because our Atlantic as well as Mediterranean trade is open to his annoyance, and because we carry on a useful commerce with his nation.

The Algerines had also taken two vessels of the United States, with twenty-one persons on board, whom they retained as slaves. On the arrival of the agent sent to that regency, the dey refused utterly to treat of peace on any terms, and demanded 59,496 dollars for the ransom of our captives. This mission therefore proved ineffectual.

While these negotiations were on foot at Morocco and Algiers, an ambassador from Tripoli arrived in London. The Ministers Plenipotentiary of the United States met him in person. He demanded for the peace of that State, thirty thousand guineas; and undertook to engage that of Tunis for a like sum. These demands were beyond the limits of Congress,

and of reason, and nothing was done. Nor was it of importance, as, Algiers remaining hostile, the peace of Tunis and Tripoli was of no value, and when that of the former should be obtained, theirs would soon follow.

Our navigation, then, into the Mediterranean, has not been resumed at all since the peace. The sole obstacle has been the unprovoked war of Algiers; and the sole remedy must be to bring that war to an end, or to palliate its effects. Its effects may, perhaps, be palliated by insuring our ships and cargoes destined for that sea, and by forming a convention with the regency, for the ransom of our seamen, according to a fixed tariff. That tariff will, probably, be high, and the rate of insurance so settled, in the long run, as to pay for the vessels and cargoes captured, and something more. What proportion will be captured nothing but experience can determine. Our commerce differs from that of most of the nations with whom the predatory States are in habits of war. Theirs is spread all over the face of the Mediterranean, and therefore must be sought for all over its face. Ours must all enter at a strait only five leagues wide; so that their cruisers, taking a safe and commanding position near the strait's mouth, may very effectually inspect whatever enters it. So safe a station, with a certainty of receiving for their prisoners a good and stated price, may tempt their cupidity to seek our vessels particularly. Nor is it certain that our seamen could be induced to

engage in that navigation, though with the security of Algerine faith that they would be liberated on the payment of a fixed sum. The temporary deprivation of liberty, perhaps chains, the danger of the pest, the perils of the engagement preceding their surrender, and possible delays of the ransom, might turn elsewhere the choice of men, to whom all the rest of the world is open. In every case, these would be embarrassments which would enter into the merchants' estimate, and endanger the preference of foreign bottoms not exposed to them. And upon the whole, this expedient does not fulfil our wish of a complete re-establishment of our commerce in that sea.

A second plan might be to obtain peace by purchasing it. For this we have the example of rich and powerful nations, in this instance counting their interest more than their honor. If, conforming to their example, we determine to purchase a peace, it is proper to inquire what a peace may cost. This being merely a matter of conjecture, we can only compare together such opinions as have been obtained, and from them form one for ourselves.

Mr. Wolf, a respectable Irishman, who had resided very long at Algiers, thought a peace might be obtained from that regency, and the redemption of our captives included, for sixty or seventy thousand pounds sterling.[1] His character and opinion both merited respect. Yet his estimate being

[1] See Extract No. 1 (page 104) accompanying this report.

the lowest of all who have hazarded an opinion on this subject, one is apt to fear his judgment might have been biassed by the hope he entertained that the United States would charge him with this negotiation.

Captain O'Brien, one of our captives, who had been in Algiers four years and a half at the date of his last letter, a very sensible man, and to whom we are indebted for very minute information, supposes that peace alone, might be bought for that sum, that is to say, for three hundred and twenty-two thousand dollars.

The Tripoline ambassador, before mentioned, thought that peace could be made with the three smaller powers for ninety thousand pounds sterling, to which were to be added the expenses of the mission and other incidental expenses. But he could not answer for Algiers; they would demand more. The ministers plenipotentiary, who conferred with him, had judged that as much must be paid to Algiers as to the other three powers together; and consequently, that according to this measure, the peace of Algiers would cost from an hundred to an hundred and twenty-five thousand pounds sterling; or from four hundred and sixty to five hundred and seventy-five thousand dollars.

The latter sum seemed to meet the ideas of the Count de Vergennes, who, from a very long residence at Constantinople, was a good judge of what related to the porte, or its dependencies.

A person whose name is not free to be mentioned here, a native of the continent of Europe, who had long lived, and still lives at Algiers, with whom the Minister Plenipotentiary of the United States, at Paris, had many and long conversations, and found his information full, clear, and consistent, was of opinion the peace of Algiers could not be bought by the United States for less than one million of dollars. And when that is paid, all is not done. On the death of a dey, (and the present one is between seventy and eighty years of age,) respectable presents must be made to the successor, that he may recognize the treaty; and very often he takes the liberty of altering it. When a consul is sent or changed, new presents must be made. If these events leave a considerable interval, occasion must be made of renewing presents. And with all this they must see that we are in condition to chastise an infraction of the treaty; consequently some marine force must be exhibited in their harbor from time to time.

The late peace of Spain with Algiers is said to have cost from three to five millions of dollars. Having received the money, they take the vessels of that nation on the most groundless pretexts; counting, that the same force which bound Spain to so hard a treaty, may break it with impunity.

Their treaty with France, which had expired, was about two years ago renewed for fifty years. The sum given at the time of renewal is not known. But presents are to be repeated every ten years, and a

tribute of one hundred thousand dollars to be annually paid. Yet perceiving that France, embarrassed at home with her domestic affairs, was less capable of acting abroad, they took six vessels of that nation in the course of the last year, and retain the captives, forty-four in number, in slavery.

It is the opinion of Captain O'Brien, that those nations are best treated who pay a smaller sum in the beginning, and an annual tribute afterwards. In this way he informs us that the Dutch, Danes, Swedes, and Venetians pay to Algiers, from twenty-four to thirty thousand dollars a year, each; the two first in naval stores, the two last chiefly in money. It is supposed, that the peace of the Barbary States costs Great Britain about sixty thousand guineas, or two hundred and eighty thousand dollars a year. But it must be noted that these facts cannot be authentically advanced; as from a principle of self-condemnation, the governments keep them from the public eye as much as possible.

Nor must we omit finally to recollect, that the Algerines, attentive to reserve always a sufficient aliment for their piracies, will never extend their peace beyond certain limits, and consequently, that we may find ourselves in the case of those nations to whom they refuse peace at any price.

The third expedient is to repel force by force. Several statements are hereto annexed of the naval force of Algiers, taken in 1785, 1786, 1787, 1788, and

1789, differing in small degrees, but concurring in the main. From these it results that they have usually had about nine chebecs, from ten to thirty-six guns, and four galleys, which have been reduced by losses to six chebecs and four galleys. They have a forty-gun frigate on the stocks, and expect two cruisers from the grand seignior. The character of their vessels is, that they are sharp built and swift, but so light as not to stand the broadside of a good frigate. Their guns are of different calibres, unskilfully pointed and worked. The vessels illy manœuvred, but crowded with men, one third Turks, the rest Moors, of determined bravery, and resting their sole hopes on boarding. But two of these vessels belong to the government, the rest being private property. If they come out of the harbor together, they separate immediately in quest of prey; and it is said they were never known to act together in any instance. Nor do they come out at all, when they know there are vessels cruising for them. They perform three cruises a year, between the middle of April and November, when they unrig and lay up for the winter. When not confined within the straits, they rove northwardly to the channel, and westwardly to the westward islands.

They are at peace at present, with France, Spain, England, Venice, the United Netherlands, Sweden, and Denmark; and at war with Russia, Austria, Portugal, Naples, Sardinia, Genoa, and Malta.

Should the United States propose to vindicate

their commerce by arms, they would, perhaps, think it prudent to possess a force equal to the whole of that which may be opposed to them. What that equal force would be, will belong to another department to say.

At the same time it might never be necessary to draw out the whole at once, nor perhaps any proportion of it, but for a small part of the year; as it is reasonable to presume that a concert of operation might be arranged among the powers at war with the Barbary States, so as that, each performing a tour of given duration, and in given order, a constant cruise during the eight temperate months of every year, may be kept up before the harbor of Algiers, till the object of such operations be completely obtained. Portugal has singly, for several years past, kept up such a cruise before the straits of Gibraltar, and by that means has confined the Algerines closely within. But two of their vessels have been out of the straits in the last five years. Should Portugal effect a peace with them, as has been apprehended for some time, the Atlantic will immediately become the principal scene of their piracies; their peace with Spain having reduced the profits of their Mediterranean cruises below the expenses of equipment.

Upon the whole, it rests with Congress to decide between war, tribute, and ransom, as the means of re-establishing our Mediterranean commerce. If war, they will consider how far our own resources

shall be called forth, and how far they will enable the Executive to engage, in the forms of the constitution, the co-operation of other powers. If tribute or ransom, it will rest with them to limit and provide the amount; and with the Executive, observing the same constitutional forms, to take arrangements for employing it to the best advantage.

No. 1.—*Extract of a letter from Richard O'Brien, one of the American captives at Algiers, to Congress. Algiers, December* 26, 1789.

"It was the opinion of Mr. John Wolf, who resided many years in this city, that the United States of America may obtain a peace for one hundred years with this regency, for the sum of sixty or seventy thousand pounds sterling, and the redemption of fifteen Americans included. Mr. Wolf was the British *Chargé des Affaires* in Algiers, and was much the friend of America, but he is no more.

"I have now been four years and a half in captivity, and I have much reason to think, that America may obtain a peace with Algiers for the sum of sixty-five or seventy thousand pounds, considering the present state of Algiers. That this regency would find it their interest to take two or three American cruisers in part payment for making a peace; and also would take masts, yards, plank, scantling, tar, pitch, and turpentine, and Philadelphia iron, as a part payment; all to be regulated at a certain fixed price by treaty."

No. 2.—*Extract of a letter from the Honorable John Adams, Minister Plenipotentiary for the United States at London, to the Honorable John Jay, Secretary for Foreign Affairs. London, February* 22, 1786.

"On Monday evening another conference was held with the Tripolitan ambassador. When he began to explain himself concerning his demands, he said they would be different according to the duration of the treaty. If that were perpetual, they would be greater; if for a term of years, less; his advice was that it should be perpetual. Once signed by the bashaw, dey, and other officers, it would be indissoluble and binding forever upon all their successors. But if a temporary treaty were made, it might be difficult and expensive to revive it. For a perpetual treaty, such as they now had with Spain, a sum of thirty thousand guineas must be paid upon the delivery of the articles

signed by the dey and other officers. If it were agreed to, he would send his secretary by land to Marseilles, and from thence, by water, to Tripoli, who should bring it back by the same route, signed by the dey, &c. He had proposed so small a sum in consideration of the circumstances, but declared it was not half of what had been lately paid them by Spain. If we chose to treat upon a different plan, he would make a treaty perpetual upon the payment of twelve thousand five hundred guineas for the first year, and three thousand guineas annually, until the thirty thousand guineas were paid. It was observed that these were large sums, and vastly beyond expectation; but his excellency answered, that they never made a treaty for less. Upon the arrival of a prize, the dey and other officers are entitled, by their laws, to large shares, by which they might make greater profits than those sums amounted to, and they never would give up this advantage for less.

"He was told, that although there was full power to treat, the American ministers were limited to a much smaller sum; so that it would be impossible to do anything until we wrote to Congress and know their pleasure. Colonel Smith was present at this, as he had been at the last conference, and agreed to go to Paris, to communicate all to Mr. Jefferson, and persuade him to come here, that we may join in farther conferences, and transmit the result to Congress.

"The ambassador believed that Tunis and Morocco would treat upon the same terms, but could not answer for Algiers. They would demand more. When Mr. Jefferson arrives, we shall insist upon knowing the ultimatum, and transmit it to Congress.

"Congress will perceive that one hundred and twenty thousand guineas will be indispensable to conclude with the four powers at this rate, besides a present to the ambassadors, and their incidental charges. Besides this, a present of five hundred guineas is made, upon the arrival of a consul in each State. No man wishes more fervently that the expense could be less, but the fact cannot be altered, and the truth ought not to be concealed.

"It may be reasonably concluded that this great affair cannot be finished for much less than two hundred thousand pounds sterling."

No. 3.—*Extract of a letter from the Honorable Thomas Jefferson, Minister Plenipotentiary for the United States at Paris, to the Honorable John Jay, Secretary for Foreign Affairs. Paris, May 23, 1786.*

"Letters received both from Madrid and Algiers, while I was in London, having suggested that treaties with the States of Barbary

would be much facilitated by a previous one with the Ottoman Porte, it was agreed between Mr. Adams and myself, that on my return I should consult, on this subject, the Count De Vergennes, whose long residence at Constantinople rendered him the best judge of its expediency. Various circumstances have put it out of my power to consult him till to-day. I stated to him the difficulties we were likely to meet with at Algiers, and asked his opinion, what would be the probable expense of a diplomatic mission to Constantinople, and what its effects at Algiers. He said that the expense would be very great; for that presents must be made at that court, and every one would be gaping after them; and that it would not procure us a peace at Algiers one penny the cheaper. He observed that the Barbary States acknowledged a sort of vassalage to the Porte, and availed themselves of that relation when anything was to be gained by it; but that whenever it subjected them to the demand from the Porte, they totally disregarded it; that money was the sole agent. He cited the present example of Spain, which, though having a treaty with the Porte, would probably be obliged to buy a peace at Algiers, at the expense of upwards of six millions of livres. I told him we had calculated, from the demands and information of the Tripoline ambassador at London, that to make peace with the four Barbary States would cost us between two and three hundred thousand guineas, if bought with money.

"The sum did not seem to exceed his expectations. I mentioned to him, that considering the uncertainty of a peace, when bought, perhaps Congress might think it more eligible to establish a cruise of frigates in the Mediterranean, and even blockade Algiers. He supposed it would require ten vessels, great and small. I observed to him that M. De Massiac had formerly done it with five; he said it was true, but that vessels of relief would be necessary. I hinted to him that I thought the English capable of administering aid to the Algerines. He seemed to think it impossible, on account of the scandal it would bring on them. I asked him what had occasioned the blockade by M. De Massiac, he said an infraction of their treaty by the Algerines."

No. 4.—*Extract of a letter from Richard O'Brien to the Hon. Thomas Jefferson. Algiers, April* 28, 1787.

"It seems the Neapolitan ambassador had obtained a truce with this regency for three months; and the ambassador wrote his court of his success; but about the 1st of April, when the cruisers were fitting out, the ambassador went to the dey, and hoped the dey would give

the necessary orders to the captains of his cruisers not to take the Neapolitan vessels. The dey said the meaning of the truce was not to take the Neapolitan cruisers, but if his chebecks should meet the Neapolitan merchantmen to take them and send them for Algiers. The ambassador said, the Neapolitan cruisers would not want a pass on those terms. The dey said, if his chebecks should meet either men of war or merchant vessels, to take them; so gave orders accordingly. The Algerines sailed the 9th instant, and are gone, I believe, off the coast of Italy. This shows there is very little confidence to be put in the royal word. No principle of national honor will bind those people; and I believe not much confidence to be put in them in treaties. The Algerines are not inclinable to a peace with the Neapolitans. I hear of no negotiation. When the two frigates arrive with the money for the ransom of the slaves, I believe they are done with the Neapolitans."

Extract of a letter from Richard O'Brien to the Hon. Thomas Jefferson.
Algiers, June 13, 1789.

"The cruisers had orders to take the Danes; but I believe Denmark, suspecting that on account of their alliance with Russia, that the grand seignior would order the regency of Algiers to make war against the Danes; accordingly, the Danes have evacuated the Mediterranean seas, until the affairs of Europe are more settled. The Danish ship with the tribute is shortly expected. She is worth fifty thousand dollars; so that the Algerines will not make known publicly their intention of breaking with Denmark, until this ship arrives with the tribute. I am very sure that Mr. Robindar is very sensible of the intention of those sea-robbers, the terror and scourge of the Christians. The reason the Algerines have not committed any depredations on the English, is, that the cruisers have not met with any of them richly loaded; for if they had met a rich ship from London for Livorna, they would certainly have brought her into port, and said that such ship was loaded for the enemy of Algiers at Livorna; but if that was not a sufficient excuse, hove overboard or clipt the pass.

"Consul Logie has been treated with much contempt by the Algerine ministry; and you may depend, that when the dey goes to his long home, that his successor will not renew the peace with Great Britain, without a large sum of money is paid, and very valuable presents. This I well know; the whole ministry says, that the peace with the English is very old, and that the English must conform to the custom of other nations, in giving the government here money and presents. In fact, the Algerines are trying their endeavors to find

some nation to break the peace with them. I think, if they had treated the English in such a manner as they have the French, that the English would resent it."

Extract of a letter from Richard O'Brien to the Hon. Thomas Jefferson. Algiers, June 13, 1789.

"What dependence or faith could be given to a peace with the Algerines, considering their present haughtiness, and with what contempt and derision do they treat all nations; so that, in my opinion, until the Algerines more strictly adhere to the treaties they have already made, it would be impolitic in any nation to try to make a peace here; for I see they take more from the nations they are at peace with, than from those they are at declared war with. The Portuguese, I hope, will keep the Algerines inside the straits; for only consider the bad consequence of the Algerines going into the mar Grandi. Should the Portuguese make a sudden peace with this regency, the Algerines would immediately go out of the straits, and of course, take many an American."

No. 5.—*Extract of a letter from the Hon. John Adams, Esq., Minister Plenipotentiary of the United States at the Court of Great Britain, to the Hon. John Jay, Esq., Secretary for Foreign Affairs. February 16, 1786.*

"The American commerce can be protected from these Africans only by negotiation, or by war. If presents should be exacted from us, as ample as those which are given by England, the expense may amount to sixty thousand pounds sterling a year, an enormous sum to be sure; but infinitely less than the expense of fighting. Two frigates of 30 guns each would cost as much to fit them for the sea, besides the accumulating charges of stores, provisions, pay, and clothing. The powers of Europe generally send a squadron of men of war with their ministers, and offer battle at the same time that they propose treaties and promise presents."

No. 6.—*Several statements of the Marine force of Algiers.—Public and private.*

May 20, 1786.—Mr. Lamb says it consists of

9 Chebecs } from 36 to 8 guns; manned, the largest with 400
10 Row Galleys } men, and so in proportion,

May 27, 1787.—Mr. Randall furnishes two statements, viz.:

A more general one—1 Setye of 34 guns.
2 " " 32 "
1 " " 26 "
1 " " 24 "
1 Chebec 20 "
1 " " 18 "
1 " " 10 "
—
8

4 half-galleys, carrying from 120 to 130 Moors.
3 galliots of 70, 60, and 50 Moors.

A more particular one as follows:

1 of 32 guns, viz. 2 eighteens, 24 nines, 6 fours, and 450 men.
1 of 28 " " 2 twelves, 24 " 2 sixes, " 400 "
1 of 24 " " 20 fours, " 350 "
1 of 20 " " 20 sixes, " 300 "
2 of 18 " " 18 " " 260 "
1 of 16 " " 16 " " 250 "
2 small craft.
—
9
55 gun-boats, carrying 1 twelve pounder each, for defence of the harbor.

June 8, 1786.—A letter from the three American captains, O'Brien, Coffin, and Stephens, state them

as 1 of 32
1 of 30
3 of 24
3 of 18
1 of 12
—
9 and 55 gun-boats.

September 25, 1787.—Captain O'Brien furnishes the following statement:

1 of 30 guns, 400 men, 106 feet length, straight keel.
1 of 26 " 320 " 96 " " " "
2 of 22 " 240 " 80 " " " "
1 of 22 " 240 " 75 " " " "

	1 of	22	guns,	240	men,	70	feet	length,	straight keel.
	1 of	18	"	200	"	70	"	"	"
	1 of	16	"	180	"	64	"	"	"
	1 of	12	"	150	"	50	"	"	"
	9								
Galleys	1 of	4	"	70	"	40	"	"	"
	2 of	2	"	46	"	32	"	"	"
	1 of	2	"	40	"	32	"	"	"

February 5, 1788.—Statement by the inhabitants of Algiers, spoken of in the report.

9 vessels from 36 down to 20 guns.
4 or 5 smaller.

About this date the Algerines lost two or three vessels, stranded or taken.

December, 1789.—Captain O'Brien furnishes the latest statement.

1 ship of 24 guns, received lately from France.
5 large cruisers.

6 3 galleys, and 60 gun-boats.

In the fall of 1789, they laid the keel of a 40 gun frigate, and they expect two cruisers from the grand seignior.

No. 7.—*Translation of a letter from Count D'Estaing to the Hon. Thomas Jefferson, Esq. Paris, May 17, 1784.*

Sir,—In giving you an account of an opinion of Mr. Massiac, and which absolutely corresponds with my own, I cannot too much observe how great a difference may take place in the course of forty years between the means which he required and those which political circumstances, that I cannot ascertain, may exact.

This Secretary of State, afterwards vice-Admiral, had the modesty, when a captain, to propose a means for the reduction of Algiers, less brilliant to himself, but more sure and economical than the one government was about to adopt. They wanted him to undertake a bombardment; he proposed a simple blockade. All the force he requested was a single man-of-war, two strong frigates, and two sloops-of-war.

I am convinced, that by blocking up Algiers by cross-anchoring, and with a long tow, that is to say, with several cables spliced to each other, and with iron chains, one might, if necessary, always remain

there, and there is no Barbarian power thus confined, which would not sue for peace.

During the war before last the English remained, even in winter, at anchor before Morbian, on the coast of Brittany, which is a much more dangerous coast. Expeditious preparation for sailing of the vessels which form the blockade, which should be of a sufficient number to prevent anything from entering or going out, while the rest remain at their stations, the choice of these stations, skilful manœuvres, strict watch during the night, every precaution against the element which every seaman ought to be acquainted with; also, against the enemy to prevent the sudden attack of boats, and to repel them in case they should make an attack by boats prepared for the purpose, frequent refreshments for the crews, relieving the men, an unshaken constancy and exactness in service, are the means, which in my opinion, would render the event indubitable. Bombardments are but transitory. It is, if I may so express myself, like breaking glass windows with guineas. None have produced effect against the barbarians. Even an imperfect blockade, were one to have the patience and courage to persist therein, would occasion a perpetual evil, it would be insupportable in the long run. To obtain the end proposed no advantage ought to be lost. If several powers would come to a good understanding, and pursue a plan formed on the principles of humanity; if they were not counteracted by others, it would require but a few years to compel the barbarians to cease being pirates; they would become merchants in spite of themselves. It is needless to observe, that the unsuccessful attempts of Spain, and those under which the republic of Venice, perhaps, hides other views, have increased the strength as well as the self-love of all the barbarians. We are assured that the Algerines have fitted out merchantmen with heavy cannon. This would render it necessary to block the place with two ships, so that one of the two might remain moored near the bar, while the other might prepare to support such of the frigates as should give chase. But their chebecs, even their frigates, and all their vessels, although overcharged with men, are moreover so badly armed and manœuvred that assistance from without would be most to be feared.

Your excellency has told me the only true means of bringing to terms the only people who can take a pleasure in disturbing our commerce. You see, I speak as an American citizen; this title, dear to my heart, the value of which I justly prize, affords me the happy opportunity of offering, still more particularly, the homage, the sincere attachment, and the respect with which I have the honor to be, &c.

ESTAING.

Report on the Algerine Prisoners.

December 28, 1790.

The Secretary of State, having had under consideration the situation of the citizens of the United States in captivity at Algiers, makes the following report thereupon to the President of the United States:

When the House of Representatives, at their late session, were pleased to refer to the Secretary of State, the petition of our citizens in captivity at Algiers, there still existed some expectation that certain measures, which had been employed to effect their redemption, the success of which depended on their secrecy, might prove effectual. Information received during the recess of Congress has so far weakened those expectations, as to make it now a duty to lay before the President of the United States, a full statement of what has been attempted for the relief of these our suffering citizens, as well before, as since he came into office, that he may be enabled to decide what further is to be done.

On the 25th of July, 1785, the schooner Maria, Captain Stevens, belonging to a Mr. Foster, of Boston, was taken off Cape St. Vincents, by an Algerine corsair; and, five days afterwards, the ship Dauphin, Captain O'Brien, belonging to Messrs. Irvins of Philadelphia, was taken by another Algerine, about fifty leagues westward of Lisbon. These vessels, with their cargoes and crews,

twenty-one persons in number, were carried into Algiers.

Congress had some time before commissioned Ministers Plenipotentiary for entering into treaties of amity and commerce with the Barbary Powers, and to send to them proper agents for preparing such treaties. An agent was accordingly appointed for Algiers, and his instructions prepared, when the Ministers Plenipotentiary received information of these captures. Though the ransom of captives was not among the objects expressed in their commissions, because at their dates the case did not exist, yet they thought it their duty to undertake that ransom, fearing that the captives might be sold and dispersed through the interior and distant countries of Africa, if the previous orders of Congress should be waited for. They therefore added a supplementary instruction to the agent to negotiate their ransom. But, while acting thus without authority, they thought themselves bound to offer a price so moderate as not to be disapproved. They therefore restrained him to two hundred dollars a man; which was something less than had been just before paid for about three hundred French captives, by the Mathurins, a religious order of France, instituted in ancient times for the redemption of Christian captives from the infidel Powers. On the arrival of the agent at Algiers, the dey demanded fifty-nine thousand four hundred and ninety-six dollars for the twenty-one captives, and could be brought to abate

but little from that demand. The agent, therefore, returned in 1786, without having effected either peace or ransom.

In the beginning of the next year, 1787, the Minister Plenipotentiary of the United States at Paris procured an interview with the general of the religious order of Mathurins, before mentioned, to engage him to lend his agency, at the expense of the United States, for the redemption of their captive citizens. He proffered at once all the services he could render, with the liberality and the zeal which distinguish his character. He observed, that he had agents on the spot, constantly employed in seeking out and redeeming the captives of their own country; that these should act for us, as for themselves; that nothing could be accepted for their agency; and that he would only expect that the price of redemption should be ready on our part, so as to cover the engagement into which he should enter. He added, that, by the time all expenses were paid, their last redemption had amounted to near two thousand five hundred livres a man, and that he could by no means flatter us that they could redeem our captives as cheap as their own. The pirates would take advantage of its being out of their ordinary line. Still he was in hopes they would not be much higher.

The proposition was then submitted to Congress, that is to say, in February, 1787, and on the 19th of September, in the same year, their Minister Pleni-

potentiary at Paris received their orders to embrace the offers of the Mathurins. This he immediately notified to the general, observing, however, that he did not desire him to enter into any engagements till a sufficient sum to cover them should be actually deposited in Paris. The general wished that the whole might be kept rigorously secret, as, should the barbarians suspect him to be acting for the United States, they would demand such sums as he could never agree to give, even with our consent, because it would injure his future purchases from them. He said he had information from his agent at Algiers, that our captives received so liberal a daily allowance as to evince that it came from a public source. He recommended that this should be discontinued; engaging that he would have an allowance administered to them, much short indeed of what they had hitherto received, but such as was given to his own countrymen, quite sufficient for physical necessities, and more likely to prepare the opinion, that as they were subsisted by his charity, they were to be redeemed by it also. These ideas, suggested to him by the danger of raising his market, were approved by the Minister Plenipotentiary; because, this being the first instance of a redemption by the United States, it would form a precedent, because a high price given by us might induce these pirates to abandon all other nations in pursuit of Americans; whereas, the contrary would take place, could our price of redemption be fixed at the lowest point.

To destroy, therefore, every expectation of a redemption by the United States, the bills of the Spanish consul at Algiers, who had made the kind advances before spoken of for the sustenance of our captives, were not answered. On the contrary, a hint was given that these advances had better be discontinued, as it was not known that they would be reimbursed. It was necessary even to go further, and to suffer the captives themselves and their friends to believe for awhile, that no attention was paid to them, no notice taken of their letters. They are still under this impression. It would have been unsafe to trust them with a secret, the disclosure of which might forever prevent their redemption, by raising the demands of the captors to sums which a due regard for our seamen, still in freedom, would forbid us to give. This was the most trying of all circumstances, and drew from them the most afflicting reproaches.

It was a twelvemonth afterwards before the money could be deposited in Paris, and the negotiation be actually put into train. In the meantime the general had received information from Algiers of a very considerable change of prices there. Within the last two or three years the Spaniards, the Neapolitans, and the Russians, had redeemed at exorbitant sums. Slaves were become scarce, and would hardly be sold at any price. Still he entered on the business with an assurance of doing the best in his power; and he was authorized to offer as far

as three thousand livres, or five hundred and fifty-five dollars a man. He wrote immediately to consult a confidential agent at Marseilles, on the best mode of carrying this business into effect; from whom he received the answer No. 2, hereto annexed.

Nothing further was known of his progress or prospects, when the House of Representatives were pleased, at their last session, to refer the petition of our captives at Algiers to the Secretary of State. The preceding narrative shows that no report could have then been made without risking the object, of which some hopes were still entertained. Later advices, however, from the Chargé des Affaires of the United States, at Paris, informs us, that these measures, though not yet desperate, are not to be counted on. Besides the exorbitance of price, before feared, the late transfer of the lands and revenues of the clergy in France to the public, by withdrawing the means, seems to have suspended the proceedings of the Mathurins in the purposes of their institution.

It is time, therefore, to look about for something more promising, without relinquishing, in the meanwhile, the chance of success through them. Endeavors to collect information, which have been continued a considerable time, as to the ransoms which would probably be demanded from us, and those actually paid by other nations, enable the Secretary of State to lay before the President the following short view, collected from original papers now in his possession, or from information delivered

to him personally. Passing over the ransoms of the Mathurins, which are kept far below the common level by special circumstances:

In 1786, the dey of Algiers demanded from our agent $59,496 for twenty-one captives, which was $2,833 a man. The agent flattered himself they could be ransomed for $1,200 apiece. His secretary informed us, at the same time, that Spain had paid $1,600.

In 1787, the Russians redeemed at $1,546 a man.

In 1788, a well-informed inhabitant of Algiers assured the Minister Plenipotentiary of the United States at Paris, that no nation had redeemed, since the Spanish treaty, at less than from £250 to £300 sterling, the medium of which is $1,237. Captain O'Brien, at the same date, thinks we must pay $1,800, and mentions a Savoy captain, just redeemed at $4,074.

In 1789, Mr. Logie, the English consul at Algiers, informed a person who wished to ransom one of our common sailors, that he would cost from £450 to £500 sterling, the mean of which is $2,137. In December of the same year, Captain O'Brien thinks our men will now cost $2,290 each, though a Jew merchant believes he could get them for $2,264.

In 1790, July 9th, a Mr. Simpson, of Gibraltar, who, at some particular request, had taken pains to find for what sum our captives could be redeemed, finds that the fourteen will cost $34,790, which is $2,485 a man. At the same date, one of them, a

Scotch boy, a common mariner, was actually redeemed at 8,000 livres, equal to $1,481, which is within nineteen dollars of the price Simpson states for common men; and the Chargé des Affaires of the United States at Paris is informed that the whole may be redeemed at that rate, adding fifty per cent, on the captains, which would bring it to $1,571 a man.

It is found then that the prices are 1,200, 1,237, 1,481, 1,546, 1,571, 1,600, 1,800, 2,137, 2,264, 2,485, 2,833, and 2,920 dollars a man, not noticing that of $4,074, because it was for a captain.

In 1786, there were 2,200 captives in Algiers, which, in 1789, had been reduced by death or ransom to 655. Of ours six have died, and one has been ransomed by his friends.

From these facts and opinions, some conjecture may be formed of the terms on which the liberty of our citizens may be obtained.

But should it be thought better to repress force by force, another expedient for their liberation may perhaps offer. Captures made on the enemy may perhaps put us into possession of some of their mariners, and exchange be substituted for ransom. It is not indeed a fixed usage with them to exchange prisoners. It is rather their custom to refuse it. However, such exchanges are sometimes effected, by allowing them more or less of advantage. They have sometimes accepted of two Moors for a Christian, at others they have refused five or six for one.

Perhaps Turkish captives may be objects of greater partiality with them, as their government is entirely in the hands of Turks, who are treated in every instance as a superior order of beings. Exchange, too, will be more practicable in our case, as our captives have not been sold to private individuals, but are retained in the hands of the Government.

The liberation of our citizens has an intimate connection with the liberation of our commerce in the Mediterranean, now under the consideration of Congress. The distresses of both proceed from the same cause, and the measures which shall be adopted for the relief of the one, may, very probably, involve the relief of the other.

The Secretary of State, to whom was referred by the House of Representatives, the representation from the General Court of the Commonwealth of Massachusetts, on the subjects of the cod and whale fisheries, together with the several papers accompanying it, has had the same under consideration, and thereupon makes the following report:

February 1, 1791.

The representation sets forth that, before the late war, about four thousand seamen, and about twenty-four thousand tons of shipping, were annually employed from that State, in the whale fishery, the produce whereof was about three hundred and fifty thousand pounds lawful money a year.

That, previous to the same period, the cod fishery of that State employed four thousand men, and twenty-eight thousand tons of shipping, and produced about two hundred and fifty thousand pounds a year.

That these branches of business, annihilated during the war, have been, in some degree, recovered since; but that they labor under many and heavy embarrassments, which, if not removed, or lessened, will render the fisheries every year less extensive and important.

That these embarrassments are heavy duties on their produce abroad, and bounties on that of their competitors; and duties at home on several articles, particularly used in the fisheries.

And it asks that the duties be taken off; that bounties be given to the fishermen; and the national influence be used abroad, for obtaining better markets for their produce.

The cod and whale fisheries, carried on by different persons, from different ports, in different vessels, in different seas, and seeking different markets, agree in one circumstance, in being as unprofitable to the adventurer, as important to the public. A succinct view of their rise, progress, and present state, with different nations, may enable us to note the circumstances which have attended their prosperity, and their decline; to judge of the embarrassments which are said to oppress ours; to see whether they depend on our own will, and may, therefore, be remedied

immediately by ourselves, or, whether depending on the will of others, they are without the reach of remedy from us, either directly or indirectly.

Their history being as unconnected as their practice, they shall be separately considered.

Within twenty years after the supposed discovery of Newfoundland, by the Cabots, we find that the abundance of fish on its banks, had already drawn the attention of the people of Europe. For, as early as 1517, or 1519, we are told of fifty ships being seen there at one time. The first adventurers in that fishery were the Biscayans, of Spain, the Basques and Bas-Bretons, of France, all united anciently in language, and still in habits, and in extreme poverty. The last circumstance enabled them long to retain a considerable share of the fishery. In 1577, the French had one hundred and fifty vessels there; the Spaniards had still one hundred, and the Portuguese fifty, when the English had only fifteen. The Spaniards and Portuguese seem at length to have retired silently, the French and English claiming the fishery exclusively, as an appurtenance to their adjacent colonies, and the profits being too small for nations surcharged with the precious metals proceeding from their mines.

Without materials to trace the intermediate progress, we only know that, so late as 1744, the French employed there five hundred and sixty-four ships, and twenty-seven thousand five hundred seamen, and took one million two hundred and forty-six

thousand quintals of fish, which was three times the extent to which England and her colonies together, carried this fishery at that time.

The English, in the beginning of the seventeenth century, had employed, generally, about one hundred and fifty vessels in the Newfoundland fishery. About 1670 we find them reduced to eighty, and one hundred, the inhabitants of New England beginning now to supplant them. A little before this, the British Parliament perceiving that their citizens were unable to subsist on the scanty profits which sufficed for their poorer competitors, endeavored to give them some advantage by prohibiting the importation of foreign fish; and, at the close of the century, they formed some regulations for their government and protection, and remitted to them some duties. A successful war enabled them, in 1713, to force from the French a cession of the Island of Newfoundland; under these encouragements, the English and American fisheries began to thrive. In 1731 we find the English take two hundred thousand quintals of fish, and the Americans two hundred and thirty thousand, besides the refuse fish, not fit for European markets. They continue to gain ground, and the French to lose it, insomuch that, about 1755, they are said to have been on a par; and, in 1768, the French have only two hundred and fifty-nine vessels, of twenty-four thousand four hundred and twenty tons, nine thousand seven hundred and twenty-two seamen, taking two hundred thousand quintals, while America

alone, for some three or four years before that, and so on, to the commencement of the late war, employed six hundred and sixty-five vessels, of twenty-five thousand six hundred and fifty tons, and four thousand four hundred and five seamen, and took from three hundred and fifty thousand to upwards of four hundred thousand quintals of fish, and England a still greater quantity, five hundred and twenty-six thousand quintals, as is said.

Spain had formally relinquished her pretensions to a participation in these fisheries, at the close of the preceding war; and, at the end of this, the adjacent continent and islands being divided between the United States, the English and French, (for the last retained two small islands merely for this object,) the right of fishing was appropriated to them also.

France, sensible of the necessity of balancing the power of England on the water, and, therefore, of improving every resource for raising seamen, and seeing that her fishermen could not maintain their competition without some public patronage, adopted the experiment of bounties on her own fish, and duties on that of foreign nations brought into her markets. But, notwithstanding this, her fisheries dwindle, from a change taken place, insensibly, in the character of her navigation, which, from being the most economical, is now become the most expensive. In 1786, she is said to have employed but seven thousand men in this fishery, and to have taken four hundred and twenty-six thousand quin-

tals; and, in 1787, but six thousand men, and one hundred and twenty-eight thousand quintals. She seems not yet sensible that the unthriftiness of her fisheries proceeds from the want of economy, and not the want of markets; and that the encouragement of our fishery abridges that of a rival nation, whose power on the ocean has long threatened the loss of all balance on that element.

The plan of the English Government, since the peace, has been to prohibit all foreign fish in their markets, and they have given from eighteen to fifty thousand pounds sterling on every fishing vessel complying with certain conditions. This policy is said to have been so far successful, as to have raised the number of seamen employed in that business, in 1786, to fourteen thousand, and the quantity of fish taken, to 732,000 quintals. * * * *

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The fisheries of the United States, annihilated during the war; their vessels, utensils, and fishermen destroyed; their markets in the Mediterranean and British America lost, and their produce dutied in those of France; their competitors enabled by bounties to meet and undersell them at the few markets remaining open, without any public aid, and, indeed, paying aids to the public;—such were the hopeless auspices under which this important business was to be resumed. Yet it was resumed, and, aided by the mere force of natural advantages, they employed, during the years 1786, 1787, 1788,

and 1789, on an average, five hundred and thirty-nine vessels, of nineteen thousand one hundred and eighty-five tons, three thousand two hundred and eighty-seven seamen, and took two hundred and fifty thousand six hundred and fifty quintals of fish. * * * And an official paper * * shows that, in the last of those years, our exportation amounted to three hundred and seventy-five thousand and twenty quintals, and thirty thousand four hundred and sixty-one barrels; deduction made of three thousand seven hundred and one quintals, and six thousand three hundred and forty-three barrels of foreign fish, received and re-exported. * * Still, however, the calculations * * which accompany the representation, show that the profits of the sales in the years 1787 and 1788, were too small to afford a living to the fishermen, and on those of 1789, there was such a loss as to withdraw thirty-three vessels, of the town of Marblehead alone, from the further pursuit of this business; and the apprehension is, that, without some public aid, those still remaining will continue to withdraw, and this whole commerce be engrossed by a single nation.

This rapid view of the cod fishery enables us to discern under what policy it has flourished or declined in the hands of other nations, and to mark the fact, that it is too poor a business to be left to itself, even with the nation most advantageously situated.

It will now be proper to count the advantages which aid, and the disadvantages which oppose us, in this conflict.

Our advantages are—

1. The neighborhood of the great fisheries, which permits our fishermen to bring home their fish to be salted by their wives and children.

2. The shore fisheries, so near at hand, as to enable the vessels to run into port in a storm, and so lessen the risk, for which distant nations must pay insurance.

3. The winter fisheries, which, like household manufactures, employ portions of time, which would otherwise be useless.

4. The smallness of the vessels, which the shortness of the voyage enables us to employ, and which, consequently, require but a small capital.

5. The cheapness of our vessels, which do not cost above the half of the Baltic fir vessels, computing price and duration.

6. Their excellence as sea boats, which decreases the risk and quickens the return.

7. The superiority of our mariners in skill, activity, enterprise, sobriety, and order.

8. The cheapness of provisions.

9. The cheapness of casks, which, of itself, is said to be equal to an extra profit of fifteen per cent.

These advantages are of such force, that, while experience has proved that no other nation can make a mercantile profit on the Newfoundland fishery, nor can support it without national aid, we can make a living profit, if vent for our fish can be procured.

Of the disadvantages opposed to us, those which depend on ourselves, are—

Tonnage and naval duties on the vessels employed in the fishery.

Impost duties on salt.

On tea, rum, sugar, molasses, hooks, lines, and leads, duck, cordage, and cables, iron, hemp, and twine, used in the fishery; coarse woollens, worn by the fishermen, and the poll tax levied by the State on their persons. The statement No. 6, shows the amount of these, exclusive of the State tax and drawback on the fish exported, to be $5.25 per man, or $57.75 per vessel of sixty-five tons. When a business is so nearly in equilibrio that one can hardly discern whether the profit be sufficient to continue it or not, smaller sums than these suffice to turn the scale against it. To these disadvantages, add ineffectual duties on the importation of foreign fish. In justification of these last, it is urged that the foreign fish received, is in exchange for the produce of agriculture. To which it may be answered, that the thing given, is more merchantable than that received in exchange, and agriculture has too many markets to be allowed to take away those of the fisheries. It will rest, therefore, with the wisdom of the Legislature to decide, whether prohibition should not be opposed to prohibition, and high duty to high duty, on the fish of other nations; whether any, and which, of the naval and other duties may be remitted, or an equivalent given to the fisherman, in the form of a

drawback, or bounty; and whether the loss of markets abroad, may not, in some degree, be compensated, by creating markets at home; to which might contribute the constituting fish a part of the military ration, in stations not too distant from navigation, a part of the necessary sea stores of vessels, and the encouraging private individuals to let the fishermen share with the cultivator, in furnishing the supplies of the table. A habit introduced from motives of patriotism, would soon be followed from motives of taste; and who will undertake to fix the limits to this demand, if it can be once excited, with a nation which doubles, and will continue to double, at very short periods?

Of the disadvantages which depend on others, are—

1. The loss of the Mediterranean markets.

2. Exclusions from the markets of some of our neighbors.

3. High duties in those of others; and,

4. Bounties to the individuals in competition with us.

The consideration of these will find its place more aptly, after a review of the condition of our whale fishery shall have led us to the same point. To this branch of the subject, therefore, we will now proceed.

The whale fishery was first brought into notice of the southern nations of Europe, in the fifteenth century, by the same Biscayans and Basques who led

the way to the fishery of Newfoundland. They began it on their own coasts, but soon found that the principal residence of the whale was in the Northern seas, into which, therefore, they pursued him. In 1578 they employed twenty-five ships in that business. The Dutch and Hamburghers took it up after this, and about the middle of the seventeenth century the former employed about two hundred ships, and the latter about three hundred and fifty.

The English endeavored also to participate of it. In 1672, they offered to their own fishermen a bounty of six shillings a ton, on the oil they should bring home, and instituted, at different times, different exclusive companies, all of which failed of success. They raised their bounty, in 1733, to twenty shillings a ton, on the admeasurement of the vessel. In 1740, to thirty shillings, with a privilege to the fishermen against being impressed. The Basque fishery, supported by poverty alone, had maintained but a feeble existence, before competitors aided by the bounties of their nation, and was, in fine, annihilated by the war of 1745, at the close of which the English bounty was raised to forty shillings. From this epoch, their whale fishery went on between the limits of twenty-eight and sixty-seven vessels, till the commencement of the last war.

The Dutch, in the meantime, had declined gradually to about one hundred and thirty ships, and have, since that, fallen down to less than half that

number. So that their fishery, notwithstanding a bounty of thirty florins a man, as well as that of Hamburg, is now nearly out of competition.

In 1715, the Americans began their whale fishery. They were led to it at first by the whales which presented themselves on their coasts. They attacked them there in small vessels of forty tons. As the whale, being infested, retired from the coast, they followed him farther and farther into the ocean, still enlarging their vessels with their adventures, to sixty, one hundred, and two hundred tons. Having extended their pursuit to the Western Islands, they fell in, accidentally, with the spermaceti whale, of a different species from that of Greenland, which alone had hitherto been known in commerce; more fierce and active, and whose oil and head matter was found to be more valuable, as it might be used in the interior of houses without offending the smell. The distinction now first arose between the Northern and Southern fisheries; the object of the former being the Greenland whale, which frequents the Northern coasts and seas of Europe and America; that of the latter being the spermaceti whale, which was found in the Southern seas, from the Western Islands and coast of Africa, to that of Brazil, and still on to the Falkland Islands. Here, again, within soundings, on the coast of Brazil, they found a third species of whale, which they called the black or Brazil whale, smaller than the Greenland, yielding a still less valuable oil, fit only for summer use, as it becomes opaque

at 50 degrees of Fahrenheit's thermometer, while that of the spermaceti whale is limpid to 41, and of the Greenland whale to 36, of the same thermometer. It is only worth taking, therefore, when it falls in the way of the fishermen, but not worth seeking, except when they have failed of success against the spermaceti whale, in which case, this kind, easily found and taken, serves to moderate their loss.

In 1771 the Americans had one hundred and eighty-three vessels, of thirteen thousand eight hundred and twenty tons, in the Northern fishery, and one hundred and twenty-one vessels, of fourteen thousand and twenty tons, in the Southern, navigated by four thousand and fifty-nine men. At the beginning of the late war, they had one hundred and seventy-seven vessels in the Northern, and one hundred and thirty-two in the Southern fishery. At that period, our fishery being suspended, the English seized the opportunity of pushing theirs. They gave additional bounties of £500, £400, £300, £200, £100 sterling, annually, to the five ships which should take the greatest quantities of oil. The effect of which was such, as, by the year 1786, to double the quantity of common oil necessary for their own consumption. Finding, on a review of the subject, at that time, that their bounties had cost the Government £13 10*s*. sterling a man, annually, or sixty per cent. on the cargoes, a part of which went consequently to ease the purchases of this article made by foreign nations, they reduced the northern bounty

from forty to thirty shillings the ton of admeasurement.

They had, some little time before, turned their attention to the Southern fishery, and given very great bounties in it, and had invited the fishermen of the United States to conduct their enterprises. Under their guidance, and with such encouragement, this fishery, which had only begun with them in 1784 or 1785, was rising into value. In 1788 they increased their bounties, and the temptations to our fishermen, under the general description of *foreigners who had been employed in the whale fishery*, to pass over with their families and vessels to the British dominions, either in America or Europe, but preferably to the latter. The effect of these measures had been prepared, by our whale oils becoming subject, in their market, to the foreign duty of £18 5*s*. sterling the ton, which, being more than equal to the price of the common oil, operated as a prohibition on that, and gave to their spermaceti oil a preference over ours to that amount.

* * * * * * * *

The fishermen of the United States, left without resource, by the loss of their market, began to think of accepting the British invitation, and of removing, some to Nova Scotia, preferring smaller advantages in the neighborhood of their ancient country and friends others to Great Britain, postponing country and friends to high premiums.

The Government of France could not be inatten-

tive to these proceedings. They saw the danger of letting four or five thousand seamen, of the best in the world, be transferred to the marine strength of another nation, and carry over with them an art, which they possessed almost exclusively. To give time for a counterplan, the Marquis de Lafayette, the valuable friend and citizen of this, as well as that country, wrote to a gentleman in Boston, to dissuade the fishermen from accepting the British proposals, and to assure them that their friends in France would endeavor to do something for them. A vessel was then arrived from Halifax at Nantucket, to take off those who had proposed to remove. Two families had gone abroad, and others were going. In this moment, the letter arriving, suspended their designs. Not another went abroad, and the vessel returned to Halifax with only the two families.

The plan adopted by the French ministry, very different from that of the first mover, was to give a counter invitation to the Nantucket men to remove and settle in Dunkirk, offering them a bounty of fifty livres (between nine and ten dollars) a ton on the admeasurement of the vessels they should equip for the whale fishery, with some other advantages. Nine families only, of thirty-three persons, accepted the invitation. This was in 1785. In 1786, the ministry were led to see that their invitation would produce but little effect, and that the true means of preventing the emigration of our fishermen to the British dominions would be to enable them still to

follow their calling from their native country, by giving them a new market for their oils, instead of the old one they had lost. The duties were, therefore, abated on American whale oil immediately, and a further abatement promised by the letter No. 8, and, in December, 1787, the arrêt No. 9 was passed.

The rival fishermen immediately endeavored to turn this measure to their own advantage, by pouring their whale oils into the markets of France, where they were enabled, by the great premiums received from their Government, perhaps, too, by extraordinary indemnifications, to undersell both the French and American fishermen. To repel this measure, France shut her ports to all foreign fish oils whatever, by the arrêt No. 10. The British whale fishery fell, in consequence, the ensuing year from two hundred and twenty-two to one hundred and seventy-eight ships. But this general exclusion has palsied our fishery also. On the 7th of December, 1788, therefore, by the arrêt No. 11, the ports of France still remaining shut to all other nations, were again opened to the produce of the whale fisheries of the United States, continuing, however, their endeavors to recover a share in this fishery themselves, by the aid of our fishermen. In 1784, 1785, 1786, they had had four ships. In 1787, three. In 1788, seventeen in the two fisheries of four thousand five hundred tons. These cost them in bounty 225,000 livres, which divided on one thousand five hundred and fifty tons of oil, the quantity they took, amounted to 145 livres

(near twenty-seven dollars) the ton, and, on about one hundred natives on board the seventeen ships, (for there were one hundred and fifty Americans engaged by the voyage) came to 2,225 livres, or about 416⅔ dollars a man.

We have had, during the years 1787, 1788 and 1789, on an average, ninety-one vessels, of five thousand eight hundred and twenty tons, in the northern, and thirty-one of four thousand three hundred and ninety tons in the southern fishery. * *

These details will enable Congress to see with what a competition we have to struggle for the continuance of this fishery, not to say its increase. Against prohibitory duties in one country, and bounties to the adventurers in both of those which are contending with each other for the same object, ours have no auxiliaries, but poverty and rigorous economy. The business, unaided, is a wretched one. The Dutch have peculiar advantages for the northern fishery, as being within six or eight days' sail of the grounds, as navigating with more economy than any other nation in Europe, their seamen content with lower wages, and their merchants with lower profit. Yet the memorial No. 13, from a committee of the whale merchants to the States General of Holland, in the year 1775, states that fourteen millions of guilders, equal to five million six hundred thousand dollars, has been lost in that fishery in forty-seven years, being about one hundred and twenty thousand dollars a year. The States General, thereupon, gave

a bounty of thirty guilders a man to the fishermen. A person immediately acquainted with the British whale fishery, and whose information merits confidence, has given assurance that the ships employed in their northern fishery, in 1788, sunk £800 each, on an average, more than the amount of the produce and bounties. An English ship of three hundred tons and forty-two seamen, in this fishery, generally brings home, after a four months' voyage, twenty-five tons of oil, worth £437 10*s.* sterling; but the wages of the officers and seamen will be £400; there remain but £37 10*s.*, not worth taking into account, towards the outfit and merchants' profit. These, then, must be paid by the Government; and it is on this idea that the British bounty is calculated.

Our vessels for the northern fishery average sixty-four tons, and cost, when built, fitted out, and victualled for the first voyage, about three thousand dollars. They have taken, on an average, the three last years, according to the statement No. 12, eighteen tons of oil, worth, at our market, nine hundred dollars, which are to pay all expenses, and subsist the fishermen and merchant. Our vessels for the southern fishery average one hundred and forty tons, and cost, when built, fitted out, and victualled, for their first voyage, about six thousand five hundred dollars. They have taken on an average, the three last years, according to the same statement, thirty-two tons of oil each, worth at our market three thousand two hundred dollars, which are, in like manner,

to pay all expenses, and subsist the owners and navigators. These expenses are great, as the voyages are generally of twelve months' duration. No hope can arise of their condition being bettered by an augmentation of the price of oil. This is kept down by the competition of the vegetable oils, which answer the same purposes, not quite so well, but well enough to become preferable, were the price to be raised, and so well, indeed, as to be more generally used than the fish oils for lighting houses and cities.

The American whale fishery is principally followed by the inhabitants of the island of Nantucket—a sand bar of about fifteen miles long, and three broad, capable of maintaining, by its agriculture, about twenty families; but it employed in these fisheries, before the war, between five or six thousand men and boys; and, in the only harbor it possesses, it had one hundred and forty vessels, one hundred and thirty-two of which were of the larger kind, as being employed in the southern fishery. In agriculture, then, they have no resource; and, if that of their fishery cannot be pursued from their own habitations, it is natural they should seek others from which it can be followed, and preferably those where they will find a sameness of language, religion, laws, habits, and kindred. A foreign emissary has lately been among them, for the purpose of renewing the invitations to a change of situation. But, attached to their native country, they prefer continuing in it, if their continuance there can be made supportable.

This brings us to the question, what relief does the condition of this fishery require?

1. A remission of duties on the articles used for their calling.

2. A retaliating duty on foreign oils, coming to seek a competition with them in or from our ports.

3. Free markets abroad.

1. The remission of duties will stand on nearly the same ground with that to the cod fishermen.

2. The only nation whose oil is brought hither for competition with our own, makes ours pay a duty of about eighty-two dollars the ton, in their ports. Theirs is brought here, too, to be reshipped fraudulently, under our flag, into ports where it could not be received under theirs, and ought not to be covered by ours, if we mean to preserve our own admission into them.

The third and principal object is to find markets for the vent of oil.

Portugal, England, Holland, Sweden, Denmark, Prussia, Russia, the Hanse towns, supply themselves and something more. Spain and Italy receive supplies from England, and need the less, as their skies are clearer. France is the only country which can take our surplus, and they take principally of the common oil; as the habit is but commencing with them of ascribing a just value to spermaceti whale. Some of this, however, finds its vent there. There was, indeed, a particular interest perpetually soliciting the exclusion of our oils from their markets.

The late Government there saw well that what we should lose thereby would be gained by others, not by themselves. And we are to hope that the present Government, as wise and friendly, will also view us, not as rivals, but as co-operators against a common rival. Friendly arrangements with them, and accommodation to mutual interest, rendered easier by friendly dispositions existing on both sides, may long secure to us this important resource for our seamen. Nor is it the interest of the fisherman alone, which calls for the cultivation of friendly arrangements with that nation; besides five-eighths of our whale oil, and two-thirds of our salted fish, they take from us one-fourth of our tobacco, three-fourths of our live stock * * a considerable and growing portion of our rice, great supplies, occasionally, of other grain; in 1789, which, indeed, was extraordinary, four millions of bushels of wheat, and upwards of a million of bushels of rye and barley * * and nearly the whole carried in our own vessels. * * They are a free market now, and will, in time, be a valuable one for ships and ship timber, potash, and peltry.

England is the market for the greatest part of our spermaceti oil. They impose on all our oils a duty of eighteen pounds five shillings sterling the ton, which, as to the common kind, is a prohibition, as has been before observed, and, as to the spermaceti, gives a preference of theirs over ours to that amount, so as to leave, in the end, but a scanty benefit to the fishermen; and, not long since, by a change of con-

struction, without any change of law, it was made to exclude our oils from their ports, when carried in our vessels. On some change of circumstance, it was construed back again to the reception of our oils, on paying always, however, the same duty of eighteen pounds five shillings. This serves to show that the tenure by which we hold the admission of this commodity in their markets, is as precarious as it is hard. Nor can it be announced that there is any disposition on their part to arrange this or any other commercial matter, to mutual convenience. The *ex parte* regulations which they have begun for mounting their navigation on the ruins of ours, can only be opposed by counter regulations on our part. And the loss of seamen, the natural consequence of lost and obstructed markets for our fish and oil, calls, in the first place, for serious and timely attention. It will be too late when the seaman shall have changed his vocation, or gone over to another interest. If we cannot recover and secure for him these important branches of employment, it behooves us to replace them by others equivalent. We have three nurseries for forming seamen:

1. Our coasting trade, already on a safe footing.

2. Our fisheries, which, in spite of natural advantages, give just cause of anxiety.

3. Our carrying trade, our only resource of indemnification for what we lose in the other. The produce of the United States, which is carried to foreign markets, is extremely bulky. That part of

it which is now in the hands of foreigners, and which we may resume into our own, without touching the rights of those nations who have met us in fair arrangements by treaty, or the interests of those who, by their voluntary regulations, have paid so just and liberal a respect to our interests, as being measured back to them again, places both parties on as good ground, perhaps, as treaties could place them—the proportion, I say, of our carrying trade, which may be resumed without affecting either of these descriptions of nations, will find constant employment for ten thousand seamen, be worth two millions of dollars, annually, will go on augmenting with the population of the United States, secure to us a full indemnification for the seamen we lose, and be taken wholly from those who force us to this act of self-protection in navigation.

Hence, too, would follow, that their Newfoundland ships, not receiving provisions from us in their bottoms, nor permitted (by a law of their own) to receive in ours, must draw their subsistence from Europe, which would increase that part of their expenses in the proportion of four to seven, and so far operate as a duty towards restoring the level between them and us. The tables No. 2 and 12, will show the quantity of tonnage, and, consequently, the mass of seamen whose interests are in distress; and No. 17, the materials for indemnification.

If regulations exactly the counterpart of those established against us, would be ineffectual, from a

difference of circumstances, other regulations equivalent can give no reasonable ground of complaint to any nation. Admitting their right of keeping their markets to themselves, ours cannot be denied of keeping our carrying trade to ourselves. And if there be anything unfriendly in this, it was in the first example.

The loss of seamen, unnoticed, would be followed by other losses in a long train. If we have no seamen, our ships will be useless, consequently our ship timber, iron, and hemp; our ship building will be at an end, ship carpenters go over to other nations, our young men have no call to the sea, our produce, carried in foreign bottoms, be saddled with war-freight and insurance in times of war; and the history of the last hundred years shows, that the nation which is our carrier has three years of war for every four years of peace. (No. 18.) We lose, during the same periods, the carriage for belligerent powers, which the neutrality of our flag would render an incalculable source of profit; we lose at this moment the carriage of our own produce to the annual amount of two millions of dollars, which, in the possible progress of the encroachment, may extend to five or six millions, the worth of the whole, with an increase in the proportion of the increase of our numbers. It is easier, as well as better, to stop this train at its entrance, than when it shall have ruined or banished whole classes of useful and industrious citizens.

It will doubtless be thought expedient that the resumption suggested should take effect so gradually, as not to endanger the loss of produce for the want of transportation; but that, in order to create transportation, the whole plan should be developed, and made known at once, that the individuals who may be disposed to lay themselves out for the carrying business, may make their calculations on a full view of all circumstances.

On the whole, the historical view we have taken of these fisheries, proves they are so poor in themselves, as to come to nothing with distant nations, who do not support them from their treasury. We have seen that the advantages of our position place our fisheries on a ground somewhat higher, such as to relieve our treasury from giving them support; but not to permit it to draw support from them, nor to dispense the government from the obligation of effectuating free markets for them; that, for the great proportion of our salted fish, for our common oil, and a part of our spermaceti oil, markets may perhaps be preserved, by friendly arrangements towards those nations whose arrangements are friendly to us, and the residue be compensated by giving to the seamen thrown out of business the certainty of employment in another branch, of which we have the sole disposal.

Opinion against the constitutionality of a National Bank.

February 15, 1791.

The bill for establishing a National Bank undertakes among other things:—

1. To form the subscribers into a corporation.

2. To enable them in their corporate capacities to receive grants of land; and so far is against the laws of *Mortmain*.[1]

3. To make alien subscribers capable of holding lands; and so far is against the laws of *alienage*.

4. To transmit these lands, on the death of a proprietor, to a certain line of successors; and so far changes the course of *Descents*.

5. To put the lands out of the reach of forfeiture or escheat; and so far is against the laws of *Forfeiture and Escheat*.

6. To transmit personal chattels to successors in a certain line; and so far is against the laws of *Distribution*.

7. To give them the sole and exclusive right of banking under the national authority; and so far is against the laws of Monopoly.

8. To communicate to them a power to make laws paramount to the laws of the States; for so they must be construed, to protect the institution from

[1] Though the Constitution controls the laws of Mortmain so far as to permit Congress itself to hold land for certain purposes, yet not so far as to permit them to communicate a similar right to other corporate bodies.

the control of the State legislatures; and so, probably, they will be construed.

I consider the foundation of the Constitution as laid on this ground: That "all powers not delegated to the United States, by the Constitution, nor prohibited by it to the States, are reserved to the States or to the people." [XIIth amendment.] To take a single step beyond the boundaries thus specially drawn around the powers of Congress, is to take possession of a boundless field of power, no longer susceptible of any definition.

The incorporation of a bank, and the powers assumed by this bill, have not, in my opinion, been delegated to the United States, by the Constitution.

I. They are not among the powers specially enumerated: for these are: 1st. A power to lay taxes for the purpose of paying the debts of the United States; but no debt is paid by this bill, nor any tax laid. Were it a bill to raise money, its origination in the Senate would condemn it by the Constitution.

2d. "To borrow money." But this bill neither borrows money nor ensures the borrowing it. The proprietors of the bank will be just as free as any other money holders, to lend or not to lend their money to the public. The operation proposed in the bill, first, to lend them two millions, and then to borrow them back again, cannot change the nature of the latter act, which will still be a payment, and not a loan, call it by what name you please.

3d. To "regulate commerce with foreign nations, and among the States, and with the Indian tribes." To erect a bank, and to regulate commerce, are very different acts. He who erects a bank, creates a subject of commerce in its bills; so does he who makes a bushel of wheat, or digs a dollar out of the mines; yet neither of these persons regulates commerce thereby. To make a thing which may be bought and sold, is not to prescribe regulations for buying and selling. Besides, if this was an exercise of the power of regulating commerce, it would be void, as extending as much to the internal commerce of every State, as to its external. For the power given to Congress by the Constitution does not extend to the internal regulation of the commerce of a State, (that is to say of the commerce between citizen and citizen,) which remain exclusively with its own legislature; but to its external commerce only, that is to say, its commerce with another State, or with foreign nations, or with the Indian tribes. Accordingly the bill does not propose the measure as a regulation of trade, but as "productive of considerable advantages to trade." Still less are these powers covered by any other of the special enumerations.

II. Nor are they within either of the general phrases, which are the two following:—

1. To lay taxes to provide for the general welfare of the United States, that is to say, "to lay taxes for *the purpose* of providing for the general welfare."

For the laying of taxes is the *power*, and the general welfare the *purpose* for which the power is to be exercised. They are not to lay taxes *ad libitum for any purpose they please;* but only *to pay the debts or provide for the welfare of the Union.* In like manner, they are not *to do anything they please* to provide for the general welfare, but only to *lay taxes* for that purpose. To consider the latter phrase, not as describing the purpose of the first, but as giving a distinct and independent power to do any act they please, which might be for the good of the Union, would render all the preceding and subsequent enumerations of power completely useless.

It would reduce the whole instrument to a single phrase, that of instituting a Congress with power to do whatever would be for the good of the United States; and, as they would be the sole judges of the good or evil, it would be also a power to do whatever evil they please.

It is an established rule of construction where a phrase will bear either of two meanings, to give it that which will allow some meaning to the other parts of the instrument, and not that which would render all the others useless. Certainly no such universal power was meant to be given them. It was intended to lace them up straitly within the enumerated powers, and those without which, as means, these powers could not be carried into effect. It is known that the very power now proposed *as a means* was rejected as *an end* by the Convention

which formed the Constitution. A proposition was made to them to authorize Congress to open canals, and an amendatory one to empower them to incorporate. But the whole was rejected, and one of the reasons for rejection urged in debate was, that then they would have a power to erect a bank, which would render the great cities, where there were prejudices and jealousies on the subject, adverse to the reception of the Constitution.

2. The second general phrase is, "to make all laws *necessary* and proper for carrying into execution the enumerated powers." But they can all be carried into execution without a bank. A bank therefore is not *necessary*, and consequently not authorized by this phrase.

It has been urged that a bank will give great facility or convenience in the collection of taxes. Suppose this were true: yet the Constitution allows only the means which are "*necessary*," not those which are merely "convenient" for effecting the enumerated powers. If such a latitude of construction be allowed to this phrase as to give any non-enumerated power, it will go to every one, for there is not one which ingenuity may not torture into a *convenience* in some instance *or other*, to *some one* of so long a list of enumerated powers. It would swallow up all the delegated powers, and reduce the whole to one power, as before observed. Therefore it was that the Constitution restrained them to the *necessary* means, that is to say, to those

means without which the grant of power would be nugatory.

But let us examine this convenience and see what it is. The report on this subject, page 3, states the only *general* convenience to be, the preventing the transportation and re-transportation of money between the States and the treasury (for I pass over the increase of circulating medium, ascribed to it as a want, and which, according to my ideas of paper money, is clearly a demerit). Every State will have to pay a sum of tax money into the treasury; and the treasury will have to pay, in every State, a part of the interest on the public debt, and salaries to the officers of government resident in that State. In most of the States there will still be a surplus of tax money to come up to the seat of government for the officers residing there. The payments of interest and salary in each State may be made by treasury orders on the State collector. This will take up the great export of the money he has collected in his State, and consequently prevent the great mass of it from being drawn out of the State. If there be a balance of commerce in favor of that State against the one in which the government resides, the surplus of taxes will be remitted by the bills of exchange drawn for that commercial balance. And so it must be if there was a bank. But if there be no balance of commerce, either direct or circuitous, all the banks in the world could not bring up the surplus of taxes, but in the form of money. Treasury orders

then, and bills of exchange may prevent the displacement of the main mass of the money collected, without the aid of any bank; and where these fail, it cannot be prevented even with that aid.

Perhaps, indeed, bank bills may be a more *convenient* vehicle than treasury orders. But a little *difference* in the degree of *convenience*, cannot constitute the necessity which the constitution makes the ground for assuming any non-enumerated power.

Besides; the existing banks will, without a doubt, enter into arrangements for lending their agency, and the more favorable, as there will be a competition among them for it; whereas the bill delivers us up bound to the national bank, who are free to refuse all arrangement, but on their own terms, and the public not free, on such refusal, to employ any other bank. That of Philadelphia, I believe, now does this business, by their post-notes, which, by an arrangement with the treasury, are paid by any State collector to whom they are presented. This expedient alone suffices to prevent the existence of that *necessity* which may justify the assumption of a non-enumerated power as a means for carrying into effect an enumerated one. The thing may be done, and has been done, and well done, without this assumption; therefore, it does not stand on that degree of *necessity* which can honestly justify it.

It may be said that a bank whose bills would have a currency all over the States, would be more convenient than one whose currency is limited to a

single State. So it would be still more convenient that there should be a bank, whose bills should have a currency all over the world. But it does not follow from this superior conveniency, that there exists anywhere a power to establish such a bank; or that the world may not go on very well without it.

Can it be thought that the Constitution intended that for a shade or two of *convenience*, more or less, Congress should be authorized to break down the most ancient and fundamental laws of the several States; such as those against Mortmain, the laws of Alienage, the rules of descent, the acts of distribution, the laws of escheat and forfeiture, the laws of monopoly? Nothing but a necessity invincible by any other means, can justify such a prostitution of laws, which constitute the pillars of our whole system of jurisprudence. Will Congress be too strait-laced to carry the Constitution into honest effect, unless they may pass over the foundation-laws of the State government for the slightest convenience of theirs?

The negative of the President is the shield provided by the Constitution to protect against the invasions of the legislature: 1. The right of the Executive. 2. Of the Judiciary. 3. Of the States and State legislatures. The present is the case of a right remaining exclusively with the States, and consequently one of those intended by the Constitution to be placed under its protection.

It must be added, however, that unless the President's mind on a view of everything which is urged for and against this bill, is tolerably clear that it is unauthorized by the Constitution; if the pro and the con hang so even as to balance his judgment, a just respect for the wisdom of the legislature would naturally decide the balance in favor of their opinion. It is chiefly for cases where they are clearly misled by error, ambition, or interest, that the Constitution has placed a check in the negative of the President.

Opinion relative to locating the Ten Mile Square for the Federal Government, and building the Federal city.

March 11, 1791.

Objects which may merit the attention of the President, at Georgetown.

The commissioners to be called into action.

Deeds of cession to be taken from the land-holders.

Site of the capitol and President's house to be determined on.

Proclamation completing the location of the territory, and fixing the site of the capitol.

Town to be laid off. Squares of reserve are to be decided on for the capitol, President's house, offices of government, town-house, prison, market, and public walks.

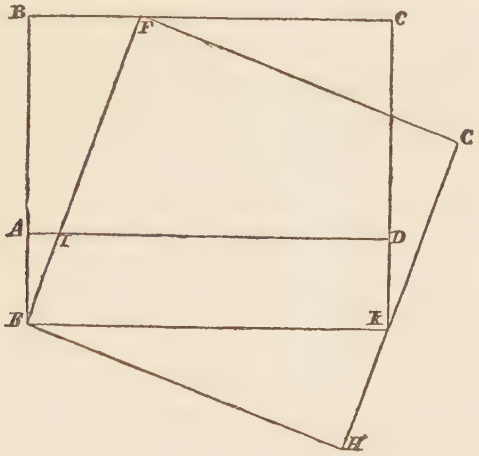
Other squares for present sale designated.

Terms of sale to be settled. As there is not as yet

a town legislature, and things may be done before there is one to prevent them, which yet it would be desirable to prevent, it would seem justifiable and expedient that the President should form a capitulary of such regulations as he may think necessary to be observed, until there shall be a town legislature to undertake this office; such capitulary to be indented, signed, sealed, and recorded, according to the laws of conveyance in Maryland. And to be referred to in every deed for conveyance of the lots to purchasers, so as to make a part thereof. The same thing might be effected, by inserting special covenants for every regulation in every deed; but the former method is the shortest. I cannot help again suggesting here one regulation formerly suggested, to wit: To provide for the extinguishment of fires, and the openness and convenience of the town, by prohibiting houses of excessive height. And making it unlawful to build on any one's purchase any house with more than two floors between the common level of the earth and the eaves, nor with any other floor in the roof than one at the eaves. To consider in what way the contracts for the public buildings shall be made, and whether as many bricks should not be made this summer as may employ brick-layers in the beginning of the season of 1792, till more can be made in that season.

With respect to the amendment of the location so as to include Bladensburgh, I am of opinion it may be done with the consent of the legislature of Mary-

land, and that that consent may be so far counted on, as to render it expedient to declare the location at once.



The location of A B C D A having been once made, I consider as obligatory and unalterable, but by consent of parties, except so far as was necessary to render it practicable by a correction of the beginning. That correction might be lawfully made either by stopping at the river, or at the spring of Hunting creek, or by lengthening the course from the court-house so that the second course should strike the mouth of Hunting creek. I am of opinion, therefore, that the beginning at the mouth of Hunting creek, is legally justifiable. But I would advise the location E F G H E to be hazarded so as to include Bladensburgh, because it is a better location, and I think will certainly be confirmed by Maryland.

That State will necessarily have to pass another act confirming whatever location shall be made, because her former act authorized the delegates *then* in office, to convey the lands. But as they were not located, no conveyance has been made, and those persons are now out of office, and dispersed. Suppose the non-concurrence of Maryland should defeat the location E F G H E, it can only be done on this principle, that the first location A B C D A was valid, and unalterable, but by mutual consent. Then their non-concurrence will re-establish the first location A B C D A, and the second location will be good for the part E I D K E without their concurrence, and this will place us where we should be were we now to complete the location E B C K E. Consequently, the experiment of an amendment proposed can lose nothing, and may gain, and probably will gain, the better location.

When I say it can lose nothing, I count as nothing, the triangle A I E, which would be in neither of the locations. Perhaps this might be taken in afterwards, either with or without the consent of Virginia.

Report on the policy of securing particular marks to Manufacturers, by law.

December 9, 1791.

The Secretary of State, to whom was referred by the House of Representatives the petition of Samuel

Breck and others, proprietors of a sail-cloth manufactory in Boston, praying that they may have the exclusive privilege of using particular marks for designating the sail-cloth of their manufactory, has had the same under consideration, and thereupon

Reports, That it would, in his opinion, contribute to fidelity in the execution of manufacturers, to secure to every manufactory an exclusive right to some mark on its wares, proper to itself.

That this should be done by general laws, extending equal right to every case to which the authority of the legislature should be competent.

That these cases are of divided jurisdiction: Manufactures made and consumed within a State being subject to State legislation, while those which are exported to foreign nations, or to another State, or into the Indian Territory, are alone within the legislation of the General Government.

That it will, therefore, be reasonable for the General Government to provide in this behalf by law for those cases of manufacture generally, and those only which relate to commerce with foreign nations, and among the several States, and with the Indian Tribes.

And that this may be done by permitting the owner of every manufactory, to enter in the records of the court of the district wherein his manufactory is, the name with which he chooses to mark or designate his wares, and rendering it penal in others to put the same mark to any other wares.

Opinion relative to the demolition of Mr. Carroll's house by Major L'Enfant, in laying out the Federal city.

December 11, 1791.

Observations on Major L'Enfant's letter of December 7th, 1791, to the President, justifying his demolition of the house of Mr. Carroll, of Duddington.

He says that "Mr. Carroll erected his house partly on a main street, and altogether on ground to which the public had a more immediate title than himself could claim." When blaming Mr. Carroll, then, he considers this as a street; but when justifying himself, he considers it not yet as a street, for to account for his not having pointed out to Carroll a situation where he might build, he says, "The President had not yet sanctioned the plan for the distribution of the city, nor determined if he would approve the situation of the several areas proposed to him in that plan for public use, and that I would have been highly to be blamed to have anticipated his opinion thereon." This latter exculpation is solid; the first is without foundation. The plan of the city has not yet been definitely determined by the President. Sale to individuals, or partition decide the plan as far as these sales or partitions go. A deed with the whole plan annexed, executed by the President, and recorded, will ultimately fix it. But till a sale, or partition, or deed, it is open to alteration. Consequently, there is as yet no such thing as a street,

except adjacent to the lots actually sold or divided; the erection of a house in any part of the ground cannot as yet be a nuisance in law. Mr. Carroll is tenant in common of the soil with the public, and the erection of a house by a tenant in common on the common property, is no nuisance. Mr. Carroll has acted imprudently, intemperately, foolishly; but he has not acted illegally. There must be an establishment of the streets, before his house can become a nuisance in the eye of the law. Therefore, till that establishment, neither Major L'Enfant, nor the commissioners, would have had a right to demolish his house, without his consent.

The Major says he had as much right to pull down a house, as to cut down a tree.

This is true, if he has received no authority to do either, but still there will be this difference: To cut down a tree or to demolish a house in the soil of another, is a trespass; but the cutting a tree, in this country, is so slight a trespass, that a man would be thought litigious who should prosecute it; if he prosecuted civilly, a jury would give small damages; if criminally, the judge would not inflict imprisonment, nor impose but a small fine. But the demolition of a house is so gross a trespass, that any man would prosecute it; if civilly, a jury would give great damages; if criminally, the judge would punish heavily by fine and imprisonment. In the present case, if Carroll was to bring a civil action, the jury would probably punish his folly by small dam-

ages; but if he were to prosecute criminally, the judge would as probably vindicate the insult on the laws, and the breach of the peace, by heavy fines and imprisonment. So that if Major L'Enfant is right in saying he had as much authority to pull down a house as to cut down a tree, still he would feel a difference in the punishment of the law.

But is he right in saying he had as much authority to pull down a house as to cut down a tree? I do not know what have been the authorities given him expressly or by *implication*, but I can very readily conceive that the authorities which he has received, whether from the President or from the commissioners, whether verbal or written, may have gone to the demolition of trees, and not houses. I am sure he has received no authority, either from the President or commissioners, either expressly or by implication, to pull down houses. An order to him to mark on the ground the lines of the streets and lots, might imply an order to remove trees or *small* obstructions, *where they insuperably prevented his operations;* but a person must know little of geometry who could not, in an open field, designate streets and lots, even where a line passed through a house, without pulling the house down.

In truth, the blame on Major L'Enfant, is for having pulled down the house, of his own authority, and when he had reason to believe he was in opposition to the sentiments of the President; and his fault is aggravated by its having been done to gratify private

resentment against Mr. Carroll, and most probably not because it was necessary; and the style in which he writes the justification of his act, shows that a continuation of the same resentment renders him still unable to acquiesce under the authority from which he has been reproved.

He desires a line of demarcation between his office, and that of the commissioners.

What should be this line? and who is to draw it? If we consider the matter under the *act of Congress* only, the President has authority only to name the commissioners, and to approve or disapprove certain proceedings of theirs. They have the whole executive power, and stand between the President and the subordinate agents. In this view, they may employ or dismiss, order and countermand, take on themselves such parts of the execution as they please, and assign other parts to subordinate agents. Consequently, under the *act of Congress*, their will is the line of demarcation between subordinate agents, while no such line can exist between themselves and their agents. Under the deed from the proprietors to the President, his powers are much more ample. I do not accurately recollect the tenor of the deed; but I am pretty sure it was such as to put much more ample power into the hands of the President, and to commit to him the whole execution of whatever is to be done under the deed; and this goes particularly to the laying out the town: so that as to this, the President is certainly authorized to draw

the line of demarcation between L'Enfant and the commissioners. But I believe there is no necessity for it, as far as I have been able to judge, from conversations and consultations with the commissioners. I think they are disposed to follow implicitly the will of the President, whenever they can find it out; but L'Enfant's letters do not breathe the same moderation or acquiescence; and I think it would be much safer to say to him, "the orders of the commissioners are your line of demarcation," than by attempting to define his powers, to give him a line where he may meet with the commissioners foot to foot, and chicane and raise opposition to their orders whenever he thinks they pass his line. I confess, that on a view of L'Enfant's proceedings and letters latterly, I am thoroughly persuaded that, to render him useful, his temper must be subdued; and that the only means of preventing his giving constant trouble to the President, is to submit him to the unlimited control of the commissioners; we know the discretion and forbearance with which they will exercise it.

Opinion relative to certain lands on Lake Erie, sold by the United States to Pennsylvania.

December 19, 1791.

The Secretary of State, to whom was referred, by the President of the United States, a letter from the Governor of Pennsylvania, with the documents

therein mentioned, on the subject of certain lands on Lake Erie, having had the same under consideration, thereupon Reports:—

That Congress, by their resolution of June 6th, 1788, directed the Geographer General of the United States to ascertain the quantity of land belonging to the United States between Pennsylvania and Lake Erie, and authorized a sale thereof.

That a sale was accordingly made to the commonwealth of Pennsylvania.

That Congress, by their resolution of September 4th, 1788, relinquished to the said commonwealth all their right to the government and jurisdiction of the said tract of land; but the right of soil was not transferred by the resolution.

That a survey of the said tract has been since made, and the amount of the purchase money been settled between the comptrollers of the United States and of the said commonwealth, and that the Governor of Pennsylvania declares in the said letter, to the President of the United States, that he is ready to close the transaction on behalf of the said commonwealth. That there is no person at present authorized, by law, to convey to the said commonwealth the right of soil, in the said tract of land.

And the Secretary of State is therefore of opinion that the said letter and documents should be laid before the legislature of the United States to make such provision by law for conveying the said right of soil, as they in their wisdom shall think fit.

Report relative to negotiations with Spain to secure the free navigation of the Mississippi, and a port on the same.

December 22, 1791.

The Secretary of State reports to the President of the United States, that one of the commissioners of Spain, in the name of both, has lately communicated to him verbally, by order of his court, that his Catholic Majesty, apprized of our solicitude to have some arrangement made respecting our free navigation of the river Mississippi, and the use of a port thereon, is ready to enter into treaty thereon at Madrid.

The Secretary of State is of opinion that this overture should be attended to without delay, and that the proposal of treating at Madrid, though not what might have been desired, should yet be accepted, and a commission plenipotentiary made out for the purpose.

That Mr. Carmichael, the present Chargé des Affaires of the United States at Madrid, from the local acquaintance which he must have acquired with persons and circumstances, would be an useful and proper member of the commission; but that it would be useful also to join with him some person more particularly acquainted with the circumstances of the navigation to be treated of.

That the fund appropriated by the act providing the means of intercourse between the United States

and foreign nations, will insufficiently furnish the ordinary and regular demands on it, and is consequently inadequate to the mission of an additional commissioner express from hence.

That, therefore, it will be advisable, on this account, as well as for the sake of despatch, to constitute some one of the ministers of the United States in Europe, jointly with Mr. Carmichael, commissioners plenipotentiary for the special purpose of negotiating and concluding, with any person or persons duly authorized by his Catholic Majesty, a convention or treaty for the free navigation of the river Mississippi by the citizens of the United States, under such accommodations with respect to a port, and other circumstances, as may render the said navigation practicable, useful, and free from dispute; saving to the President and Senate their respective rights as to their ratification of the same; and that the said negotiation be at Madrid, or such other place in Spain, as shall be desired by his Catholic Majesty.

March 18, 1792.

The appointment of Mr. Carmichael and Mr. Short, as commissioners to negotiate, with the court of Spain, a treaty or convention relative to the navigation of the Mississippi, and which perhaps may be extended to other interests, rendering it necessary that the subjects to be treated of should be developed, and the conditions of arrangement explained:

The Secretary of State reports to the President of the United States the following observations on the subjects of negotiation between the United States of America and the court of Spain, to be communicated by way of instruction to the commissioners of the United States, appointed as before mentioned, to manage that negotiation.

These subjects are,

I. Boundary.

II. The navigation of the Mississippi.

III. Commerce.

1. As to boundary, that between Georgia and Florida is the only one which will need any explanation. Spain sets up a claim to possessions within the State of Georgia, founded on her having rescued them by force from the British during the late war. The following view of the subject seems to admit no reply:

The several States now comprising the United States of America, were, from their first establishment, separate and distinct societies, dependent on no other society of men whatever. They continued at the head of their respective governments the executive magistrate who presided over the one they had left, and thereby secured, in effect, a constant amity with the nation. In this stage of their government their several boundaries were fixed; and particularly the southern boundary of Georgia, the only one now in question, was established at the 31st degree of latitude from the Appalachicola westwardly; and

the western boundary, originally the Pacific Ocean, was, by the treaty of Paris, reduced to the middle of the Mississippi. The part which our chief magistrate took in a war, waged against us by the nation among whom he resided, obliged us to discontinue him, and to name one within every State. In the course of this war we were joined by France as an ally, and by Spain and Holland as associates; having a common enemy, each sought that common enemy wherever they could find him. France, on our invitation, landed a large army within our territories, continued it with us two years, and aided us in recovering sundry places from the possession of the enemy. But she did not pretend to keep possession of the places rescued. Spain entered into the remote western part of our territory, dislodged the common enemy from several of the posts they held therein, to the annoyance of Spain; and perhaps thought it necessary to remain in some of them, as the only means of preventing their return. We, in like manner, dislodged them from several posts in the same western territory, to wit: Vincennes, Cahokia, Kaskaskia, &c., rescued the inhabitants, and retained constantly afterwards both them and the territory under our possession and government. At the conclusion of the war, Great Britain, on the 30th of November, 1782, by treaty acknowledged our independence, and our boundary, to wit: the Mississippi to the west, and the completion of the 31st degree, &c., to the south. In her treaty with

Spain, concluded seven weeks afterwards, to wit: January 20th, 1783, she ceded to her the two Floridas, which had been defined in the proclamation of 1763, and Minorca; and by the eighth article of the treaty, Spain agreed to restore, *without compensation*, all the territories conquered by her, and not included in the treaty, either under the head of cessions or restitutions, that is to say, all except Minorca and the Floridas. According to this stipulation, Spain was expressly bound to have delivered up the possessions she had taken within the limits of Georgia, to Great Britain, if they were conquests on Great Britain, who was to deliver them over to the United States; or rather, she should have delivered them to the United States themselves, as standing *quoad hoc* in the place of Great Britain. And she was bound by natural rights to deliver them to the same United States on a much stronger ground, as the real and only proprietors of those places which she had taken possession of in a moment of danger, without having had any cause of war with the United States, to whom they belonged, and without having declared any; but, on the contrary, conducting herself in other respects as a friend and associate. *Vattel*, 1. 3, 122.

It is an established principle, that conquest gives only an inchoate treaty of peace, which does not become perfect till confirmed by the treaty of peace, and by a renunciation or abandonment by the former proprietor. Had Great Britain been that

former proprietor, she was so far from confirming to Spain the right to the territory of Georgia, invaded by Spain, that she expressly relinquished to the United States any right that might remain in her; and afterwards completed that relinquishment, by procuring and consolidating with it the agreement of Spain herself to restore such territory without compensation. It is still more palpable, that a war existing between two nations, as Spain and Great Britain, could give to neither the right to seize and appropriate the territory of a third, which is even neutral, much less which is an associate in the war, as the United States were with Spain. See, on this subject, *Grotius*, 1. 3, c. 6, § 26. *Puffendorf*, 1. 8, c. 17, § 23. *Vattel*, 1. 3, § 197, 198.

On the conclusion of the general peace, the United States lost no time in requiring from Spain an evacuation of their territory. This has been hitherto delayed by means which we need not explain to that court, but which have been equally contrary to our right and to our consent.

Should Spain pretend, as has been intimated, that there was a secret article of treaty between the United States and Great Britain, agreeing, if at the close of the war the latter should retain the Floridas, that then the southern boundary of Georgia should be the completion of the 32d degree of latitude, the commissioners may safely deny all knowledge of the fact, and refuse conference on any such postulatum. Or, should they find it necessary to enter into any

argument on the subject, they will of course do it hypothetically; and in that way may justly say, on the part of the United States; suppose that the United States, exhausted by a bloody and expensive war with Great Britain, might have been willing to have purchased peace by relinquishing, under a particular contingency, a small part of their territory, it does not follow that the same United States, recruited and better organized, must relinquish the same territory to Spain without striking a blow. The United States, too, have irrevocably put it out of their power to do it, by a new constitution, which guarantees every State against the invasion of its territory. A disastrous war, indeed, might, by necessity, supersede this stipulation, (as necessity is above all law,) and oblige them to abandon a part of a State; but nothing short of this can justify or obtain such an abandonment.

The southern limits of Georgia depend chiefly on,

1. The charter of Carolina to the lords proprietors, in 1663, extending southwardly to the river Matheo, now called St. John, supposed in the charter to be in latitude 31, and so west in a direct line as far as the South Sea. See the charter in 4th[1] Memoires de l'Amerique, 554.

2. On the proclamation of the British King, in 1763, establishing the boundary between Georgia

[1] Mr. Short is desired to purchase this book at Amsterdam, or Paris, as he may not find it at Madrid, and when it shall have answered the purposes of this mission, let it be sent here for the use of the Secretary of State's office.

and the two Floridas to begin on the Mississippi, in thirty-one degrees of latitude north of the equator, and running eastwardly to the Appalachicola; thence, along the said river to the mouth of the Flint; thence, in a direct line, to the source of St. Mary's river, and down the same to the ocean. This proclamation will be found in Postlethwayte voce "British America."

3. On the treaties between the United States and Great Britain, of November 30, 1782, and September 3, 1783, repeating and confirming these ancient boundaries,—

There was an intermediate transaction, to wit: a convention concluded at the Pardo, in 1739, whereby it was agreed that Ministers Plenipotentiary should be immediately appointed by Spain and Great Britain for settling the limits of Florida and Carolina. The convention is to be found in the collections of treaties. But the proceedings of the Plenipotentiaries are unknown here. *Qu.* If it was on that occasion that the southern boundary of Carolina was transferred from latitude of Matheo or St. John's river further north to the St. Mary's ? Or was it the proclamation of 1763, which first removed this boundary? [If the commissioners can procure in Spain a copy of whatever was agreed on in consequence of the convention of the Pardo, it is a desirable State paper here.]

To this demonstration of our rights may be added the explicit declaration of the court of Spain, that

she would accede to them. This took place in conversations and correspondence thereon between Mr. Jay, Minister Plenipotentiary for the United States at the court at Madrid, the Marquis de La Fayette, and the Count de Florida Blanca. Monsieur de La Fayette, in his letter of February 19, 1783, to the Count de Florida Blanca, states the result of their conversations on limits in these words: "With respect to limits, his Catholic Majesty has adopted those that are determined by the preliminaries of the 30th of November, between the United States and the court of London." The Count de Florida Blanca, in his answer of February 22d, to M. de La Fayette, says, "although it is his Majesty's intention to abide for the present by the limits established by the treaty of the 30th of November, 1782, between the English and the Americans, the King intends to inform himself particularly whether it can be in any ways inconvenient or prejudicial to settle that affair amicably with the United States;" and M. de La Fayette, in his letter of the same day to Mr. Jay, wherein he had inserted the preceding, says, "on receiving the answer of the Count de Florida Blanca, (to wit: his answer, before mentioned, to M. de La Fayette,) I desired an explanation respecting the addition that relates to the limits. I was answered, that it was a fixed principle to abide by the limits established by the treaty between the English and the Americans; that his remark related only to mere unimportant details, which he wished to receive from the Spanish

commandants, which would be amicably regulated, and *would by no means oppose the general principle.* I asked him, before the Ambassador of France, [M. de Montmorin,] whether he would give me his word of honor for it; he assured me he would, and that I might engage it to the United States." See the report sent herewith.

II.—The navigation of the Mississippi.

Our right to navigate that river, from its source to where our southern boundary strikes it, is not questioned. It is from that point downwards, only, that the exclusive navigation is claimed by Spain; that is to say, where she holds the country on both sides; to wit: Louisiana on the west, and Florida on the east.

Our right to participate in the navigation of that part of the river, also, is to be considered, under

1. The Treaty of Paris of 1763.
2. The Revolution Treaty of 1782–3.
3. The law of nature and nations.

1. The war of 1755–1763, was carried on jointly by Great Britain and the thirteen colonies, now the United States of America, against France and Spain. At the peace which was negotiated by our common magistrate, a right was secured to the subjects of Great Britain (the common designation of all those under his government) to navigate the Mississippi in its whole breadth and length, from its source to the sea, and expressly that part which is between the island of New Orleans and the right bank of the

river, as well as the passage both in and out of its mouth; and that the vessels should not be stopped, visited, or subjected to the payment of any duty whatsoever. These are the words of the treaty, article VII. Florida was at the same time ceded by Spain, and its extent westwardly was fixed to the lakes Pontchartrain and Maurepas, and the river Mississippi; and Spain received soon after from France a cession of the island of New Orleans, and all the country she held westward of the Mississippi, subject of course to our right of navigating between that country and the island previously granted to us by France. This right was not parcelled out to us in severalty, that is to say, to each the exclusive navigation of so much of the river as was adjacent to our several shores—in which way it would have been useless to all—but it was placed on that footing on which alone it could be worth anything, to wit: as a right to all to navigate the whole length of the river in common. The import of the terms and the reason of the thing prove it was a right of common in the whole, and not a several right to each of a particular part. To which may be added the evidence of the stipulation itself, that we should navigate between New Orleans and the western bank, which, being adjacent to none of our States, could be held by us only as a right of common. Such was the nature of our right to navigate the Mississippi, as far as established by the Treaty of Paris.

2. In the course of the Revolutionary war, in

which the thirteen colonies, Spain, and France, were opposed to Great Britain, Spain took possession of several posts held by the British in Florida. It is unnecessary to inquire whether the possession of half a dozen posts scattered through a country of seven or eight hundred miles extent, could be considered as the possession and conquest of that country. If it was, it gave still but an inchoate right, as was before explained, which could not be perfected but by the relinquishment of the former possession at the close of the war; but certainly it could not be considered as a conquest *of the river*, even against Great Britain, since the possession of the shores, to wit, of the island of New Orleans on the one side, and Louisiana on the other, having undergone no change, the right in the water would remain the same, if considered only in its relation to them; and if considered as a distinct right, independent of the shores, then no naval victories obtained by Spain over Great Britain, in the course of the war, gave her the color of conquest over any water which the British fleet could enter. Still less can she be considered as having conquered the river, as against the United States, with whom she was not at war. We had a common right of navigation in the part of the river between Florida, the island of New Orleans, and the western bank, and nothing which passed between Spain and Great Britain, either during the war, or at its conclusion, could lessen that right. Accordingly, at the treaty of

November, 1782, Great Britain confirmed the rights of the United States to the navigation of the river, from its source to its mouth, and in January, 1783, completed the right of Spain to the territory of Florida, by an absolute relinquishment of all her rights in it. This relinquishment could not include the navigation held by the United States in their own right, because this right existed in themselves only, and was not in Great Britain. If it added anything to the rights of Spain respecting the river between the eastern and western banks, it could only be that portion of right which Great Britain had retained to herself in the treaty with the United States, held seven weeks before, to wit, a right of using it in common with the United States.

So that as by the treaty of 1763, the United States had obtained a common right of navigating the whole river from its source to its mouth, so by the treaty of 1782, that common right was confirmed to them by the only power who could pretend claims against them, founded on the state of war; nor has that common right been transferred to Spain by either conquest or cession.

But our right is built on ground still broader and more unquestionable, to wit:

3. On the law of nature and nations.

If we appeal to this, as we feel it written on the heart of man, what sentiment is written in deeper characters than that the ocean is free to all men, and their rivers to all their inhabitants? Is there a

man, savage or civilized, unbiased by habit, who does not feel and attest this truth? Accordingly, in all tracts of country united under the same political society, we find this natural right universally acknowledged and protected by laying the navigable rivers open to all their inhabitants. When their rivers enter the limits of another society, if the right of the upper inhabitants to descend the stream is in any case obstructed, it is an act of force by a stronger society against a weaker, condemned by the judgment of mankind. The late case of Antwerp and the Scheldt was a striking proof of a general union of sentiment on this point; as it is believed that Amsterdam had scarcely an advocate out of Holland, and even there its pretensions were advocated on the ground of treaties, and not of natural right. (The commissioners would do well to examine thoroughly what was written on this occasion.) The commissioners will be able perhaps to find, either in the practice or the pretensions of Spain, as to the Dauro, Tagus, and Guadiana, some acknowledgments of this principle on the part of that nation. This sentiment of right in favor of the upper inhabitants must become stronger in the proportion which their extent of country bears to the lower. The United States hold 600,000 square miles of habitable territory on the Mississippi and its branches, and this river and its branches afford many thousands of miles of navigable waters penetrating this territory in all its parts. The inhabitable grounds of

Spain below our boundary and bordering on the river, which alone can pretend any fear of being incommoded by our use of the river, are not the thousandth part of that extent. This vast portion of the territory of the United States has no other outlet for its productions, and these productions are of the bulkiest kind. And in truth, their passage down the river may not only be innocent, as to the Spanish subjects on the river, but cannot fail to enrich them far beyond their present condition. The real interests then of all the inhabitants, upper and lower, concur in fact with their rights.

If we appeal to the law of nature and nations, as expressed by writers on the subject, it is agreed by them, that, were the river, where it passes between Florida and Louisiana, the exclusive right of Spain, still an innocent passage along it is a natural right in those inhabiting its borders above. It would indeed be what those writers call an imperfect right, because the modification of its exercise depends in a considerable degree on the conveniency of the nation through which they are to pass. But it is still a right as real as any other right, however well-defined; and were it to be refused, or to be so shackled by regulations, not necessary for the peace or safety of its inhabitants, as to render its use impracticable to us, it would then be an injury, of which we should be entitled to demand redress. The right of the upper inhabitants to use this navigation is the counterpart to that of those possessing the shore

below, and founded in the same natural relations with the soil and water. And the line at which their rights meet is to be advanced or withdrawn, so as to equalize the inconveniences resulting to each party from the exercise of the right by the other. This estimate is to be fairly made with a mutual disposition to make equal sacrifices, and the numbers on each side are to have their due weight in the estimate. Spain holds so very small a tract of habitable land on either side below our boundary, that it may in fact be considered as a strait of the sea; for though it is eighty leagues from our boundary to the mouth of the river, yet it is only here and there in spots and slips that the land rises above the level of the water in times of inundation. There are, then, and ever must be, so few inhabitants on her part of the river, that the freest use of its navigation may be admitted to us without their annoyance. For authorities on this subject, see Grot. l. 2. c. 2 § 11, 12, 13, c. 3. § 7, 8, 12. Puffendorf, l. 3. c. 3. § 3, 4, 5, 6. Wolff's Inst. § 310, 311, 312. Vattel, l. 1. § 292. l. 2. § 123 to 139.

It is essential to the interests of both parties that the navigation of the river be free to both, on the footing on which it was defined by the Treaty of Paris, viz.: through its whole breadth. The channel of the Mississippi is remarkably winding, crossing and recrossing perpetually from one side to

the other of the general bed of the river. Within the elbows thus made by the channel, there is generally an eddy setting upwards, and it is by taking advantage of these eddies, and constantly crossing from one to another of them, that boats are enabled to ascend the river. Without this right the whole river would be impracticable both to the Americans and Spaniards.

It is a principle that the right to a thing gives a right to the means, without which it could not be used, that is to say, that the means follow their end. Thus, a right to navigate a river, draws to it a right to moor vessels to its shores, to land on them in cases of distress, or for other necessary purposes, &c. This principle is founded in natural reason, is evidenced by the common sense of mankind, and declared by the writers before quoted. See Grot. l. 2. c. 2. § 15. Puffend. l. 3. c. 3. § 8. Vattel, l. 2. § 129.

The Roman law, which, like other municipal laws, placed the navigation of their rivers on the footing of nature, as to their own citizens, by declaring them public,[1] (flumina publica sunt, hoc est populi Romani, Inst. 2. t. 1. § 2,) declared also that the right to the use of the shores was incident to that of the water. Ibid, § 1, 3, 4, 5. The laws of every country probably do the same. This must have been so understood between France and Great Britain, at the

[1] Rivers belong to the public, that is to say to the Roman people.

treaty of Paris, when a right was ceded to British subjects to navigate the whole river, and expressly that part between the island of New Orleans and the western bank, without stipulating a word about the use of the shores, though both of them belonged then to France, and were to belong immediately to Spain. Had not the use of the shores been considered as incident to that of the water, it would have been expressly stipulated; since its necessity was too obvious to have escaped either party. Accordingly, all British subjects used the shores habitually for the purposes necessary to the navigation of the river; and when a Spanish governor undertook at one time to forbid this, and even cut loose the vessels fastening to their shores, a British frigate went immediately, moored itself to the shore opposite to the town of New Orleans, and set out guards with orders to fire on such as might attempt to disturb her moorings. The governor acquiesced, the right was constantly exercised afterwards, and no interruption ever offered.

This incidental right extends even beyond the shores, when circumstances render it necessary to the exercise of the principal right; as, in the case of a vessel damaged, where the mere shore could not be a safe deposit for her cargo till she could be repaired, she may remove it into safe ground off the river. The Roman law shall be quoted here too, because it gives a good idea both of the extent and the limitations of this right. Ins. l. 2. t. 1. § 4.

[1] "Riparum quoque usus publicus est, ut volunt jura gentium, sicut et ipsius fluminis usus publicus est. Itaque et navigium ad ripes appellere, et funes de arboribus ibi natis religare, et navis onera in his locis reponere, liberum quique est sicuti nec per flumen ipsum navigare quisquam prohibetur." And again, § 5, [2] "littorum quoque usus publicus, sive juri gentium est, ut et ipsius maris et ob id data est facultas volentibus, casas ibi sibi componere, in quas se recipere possint," &c. Again, § 1. [3] "Nemo igitur ad littora maris accedere prohibitur; veluti deambulare aut navem appellere, sic tamen ut a villis, id est domiciliis monumentisque ibi positis, et ab edificiis abstineat, nec iis damnum inferat."

Among incidental rights are those of having pilots, buoys, beacons, landmarks, light-houses, &c., to guide the navigators. The establishment of these at joint expense, and under joint regulations, may be the subject of a future convention. In the meantime, both should be free to have their own,

[1] "The use of the banks belong also to the public by the laws of nations, as the use of the river itself does. Therefore, every one is free to moor his vessel to the bank, to fasten his cables to the trees growing on it, to deposit the cargo of his vessel in those places in like manner as every one is free to navigate the river itself."

[2] "The use of the shores also belongs to the public, or is under the law of nations, as is that of the sea itself. Therefore it is, that those who choose, have a right to build huts there, into which they may betake themselves."

[3] "Nobody, therefore, is prohibited from landing on the sea shore, walking there, or mooring their vessel there, so nevertheless that they keep out of the villas, that is, the habitations, monuments, and public buildings, erected there, and do them no injury."

and refuse those of the other, both as to use and expense.

Very peculiar circumstances attending the river Mississippi, require that the incidental right of accommodation on the shore, which needs only occasional exercise on other rivers, should be habitual and constant on this. Sea vessels cannot navigate that river, nor the river vessels go to sea. The navigation would be useless then without an entrepôt where these vessels might safely deposit their own cargoes, and take those left by the others; and where warehouses and keepers might be constantly established for the safeguard of the cargoes. It is admitted, indeed, that the incidental right thus extended into the territory of the bordering inhabitants, is liable to stricter modifications in proportion as it interferes with their territorial right. But the inconveniences of both parties are still to have their weight, and reason and moderation on both sides are to draw the line between them. As to this, we count much on the liberality of Spain, on her concurrence in opinion with us, that it is for the interest of both parties to remove completely this germ of discord from between us, and draw our friendship as close as circumstances proclaim that it should be, and on the considerations which make it palpable that a convenient spot placed under our exclusive occupation, and exempted from the jurisdiction and police of their government, is far more likely to preserve peace than a mere free port, where eternal

altercations would keep us in eternal ill humor with each other. The policy of this measure, and indeed of a much larger concession, having been formerly sketched in a paper of July 12th, 1790, sent to the commissioners severally, they are now referred to that.

If this be agreed to, the manner of fixing on that extra territorial spot becomes highly interesting. The most desirable to us, would be a permission to send commissioners to choose such spot, below the town of New Orleans, as they should find most convenient.

If this be refused, it would be better now to fix on the spot. Our information is, that the whole country below the town, and for sixty miles above it, on the western shore, is low, marshy, and subject to such deep inundation for many miles from the river, that if capable of being reclaimed at all by banking, it would still never afford an entrepôt sufficiently safe; that on the eastern side the only lands below the town, not subject to inundation, are at the Detour aux Anglais, or English Turn, the highest part of which, is that whereon the fort St. Marie formerly stood. Even this is said to have been raised by art, and to be very little above the level of the inundations. This spot then is what we would fix on, if obliged now to decide, with from one to as many square miles of the circumjacent lands as can be obtained, and comprehending expressly the shores above and below the site of the fort as far as possible.

But as to the spot itself, the limits, and even whether it shall be extra territorial, or only a free port, and what regulations it shall be laid under, the convenience of that Government is entitled to so much respect and attention on our part, that the arrangement must be left to the management of the commissioners, who will doubtless use their best efforts to obtain all they can for us.

The worst footing on which the determination of the ground could be placed, would be a reference to joint commissioners; because their disagreement, a very probable, nay, a certain event, would undo the whole convention, and leave us exactly where we now are. Unless indeed they will engage to us, in case of such disagreement, the highest ground at the Detour aux Anglais, of convenient extent, including the landings and harbor thereto adjacent. This would ensure us that ground, unless better could be found and mutually preferred, and close the delay of right under which we have so long labored for peace-sake.

It will probably be urged, because it was urged on a former occasion, that, if Spain *grants* to us the right of navigating the Mississippi, other nations will become entitled to it by virtue of treaties giving them the rights of the *most favored nation.*

Two answers may be given to this:

1. When those treaties were made, no nations could be under contemplation but those then existing, or those at most who might exist under similar

circumstances. America did not then exist as a nation; and the circumstances of her position and commerce, are so totally dissimilar to everything then known, that the treaties of that day were not adapted to any such being. They would better fit even China than America; because, as a manufacturing nation, China resembles Europe more. When we solicited France to admit our whale oils into her ports, though she had excluded all foreign whale oils, her minister made the objection now under consideration, and the foregoing answer was given. It was found to be solid; and the whale oils of the United States are in consequence admitted, though those of Portugal and the Hanse towns, and of all other nations, are excluded. Again, when France and England were negotiating their late treaty of commerce, the great dissimilitude of our commerce (which furnishes raw materials to employ the industry of others, in exchange for articles whereon industry has been exhausted) from the commerce of the European nations (which furnishes things ready wrought only) was suggested to the attention of both negotiators, and that they should keep their nations free to make particular arrangements with ours, by communicating to each other only the rights of the most favored European nation. Each was separately sensible of the importance of the distinction; and as soon as it was proposed by the one, it was acceded to by the other, and the word *European* was inserted in their treaty. It may

fairly be considered then as the rational and received interpretation of the diplomatic term, "gentis amicissimæ,"[1] that it has not in view a nation unknown in many cases at the time of using the term, and so dissimilar in all cases as to furnish no ground of just reclamation to any nation.

But the decisive answer is, that Spain does not grant us the navigation of the river. We have an inherent right to it; and she may repel the demand of any other nation by candidly stating her act to have been, what in truth it is, a recognition only, and not a grant.

If Spain apprehends that other nations may claim access to our ports in the Mississippi, under their treaties with us, giving them a right to come and trade in all our ports, though we would not choose to insert an express stipulation against them, yet we shall think ourselves justified to acquiesce in fact, under any regulations Spain may from time to time establish against their admission.

Should Spain renew another objection, which she relied much on before, that the English at the Revolution treaty could not cede to us what Spain had taken from them by conquest, and what of course they did not possess themselves, the preceding observations furnish sufficient matter for refutation.

To conclude the subjects of boundary and navigation, each of the following conditions is to be considered by the commissioners as a *sine quâ non*.

[1] "The most favored nation."

1. That our southern boundary remain established at the completion of thirty-one degrees of latitude on the Mississippi, and so on to the ocean, as has been before described, and our western one along the middle of the channel of the Mississippi, however that channel may vary, as it is constantly varying, and that Spain cease to occupy or to exercise jurisdiction in any part northward or eastward of these boundaries.

2. That our right be acknowledged of navigating the Mississippi, in its whole breadth and length, from its source to the sea, as established by the treaty of 1763.

3. That neither the vessels, cargoes, nor the persons on board, be stopped, visited, or subjected to the payment of any duty whatsoever; or, if a visit must be permitted, that it be under such restrictions as to produce the least possible inconvenience. But it should be altogether avoided, if possible, as the parent of perpetual broils.

4. That such conveniences be allowed us ashore, as may render our right of navigation practicable and under such regulations as may *bonâ fide* respect the preservation of peace and order alone, and may not have in object to embarrass our navigation, or raise a revenue on it. While the substance of this article is made a *sine quâ non*, the modifications of it are left altogether to the discretion and management of the commissioners.

We might add, as a fifth *sine quâ non*, that no

phrase should be admitted in the treaty which could express or imply that we take the navigation of the Mississippi as a *grant* from Spain. But, however disagreeable it would be to subscribe to such a sentiment, yet, where the conclusion of a treaty to hang on that single objection, it would be expedient to waive it, and to meet, at a future day, the consequences of any resumption they may pretend to make, rather than at present, those of a separation without coming to any agreement.

We know not whether Spain has it in idea to ask a compensation for the ascertainment of our right.

1. In the first place, she cannot in reason ask a compensation for yielding what we have a right to, that is to say, the navigation of the river, and the conveniences incident to it of natural right.

2. In the second place, we have a claim on Spain for indemnification for nine years' exclusion from that navigation, and a reimbursement of the heavy duties (not less for the most part than 15 per cent. on extravagant valuations) levied on the commodities she has permitted to pass to New Orleans. The relinquishment of this will be no unworthy equivalent for any accommodations she may indulge us with, beyond the line of our strict right. And this claim is to be brought into view in proper time and manner, merely to be abandoned in consideration of such accommodations. We have nothing else to give in exchange. For as to territory, we have neither the right nor the disposition to alienate

an inch of what belongs to any member of our Union. Such a proposition, therefore, is totally inadmissible, and not to be treated of for a moment.

3. On the former conferences on the navigation of the Mississippi, Spain chose to blend with it the subject of commerce; and, accordingly, specific propositions thereon passed between the negotiators. Her object, then, was to obtain our renunciation of the navigation, and to hold out commercial arrangements, perhaps as a lure to us; perhaps, however, she might then, and may now, really set a value on commercial arrangements with us, and may receive them as a consideration for accommodating us in the navigation; or, may wish for them, to have the appearance of receiving a consideration. Commercial arrangements, if acceptable in themselves, will not be the less so if coupled with those relating to navigation and boundary. We have only to take care that they be acceptable in themselves.

There are two principles which may be proposed as the basis of a commercial treaty: 1. That of exchanging the privileges of *native citizens;* or,

2. Those of *the most favored nation.*

1. With the nations holding important possessions in America, we are ready to exchange the rights of native citizens, provided they be extended through the whole possessions of both parties, but the propositions of Spain, made on the former occasion, (a copy of which accompanies this,) were, that we should give their merchants, vessels, and productions,

the privilege of native merchants, vessels, and productions, through the whole of our possessions, and they give the same to ours only in Spain and the Canaries. This is inadmissible, because unequal; and, as we believe that Spain is not ripe for an equal exchange on this basis, we avoid proposing it.

2. Though treaties, which merely exchange the rights of the most favored nations, are not without all inconvenience, yet they have their conveniences also. It is an important one, that they leave each party free to make what internal regulations they please, and to give what preferences they find expedient to native merchants, vessels, and productions. And as we already have treaties on this basis, with France, Holland, Sweden, and Prussia, the two former of which are perpetual, it will be but small additional embarrassment to extend it to Spain. On the contrary, we are sensible it is right to place that nation on the most favored footing, whether we have a treaty with them or not, and it can do us no harm to secure by treaty a reciprocation of the right.

Of the four treaties before mentioned, either the French or the Prussian might be taken as a model. But it would be useless to propose the Prussian; because we have already supposed that Spain would never consent to those articles which give to each party access to all the dominions of the other; and, without this equivalent, we would not agree to tie our own hands so materially in war, as would be done by the 23d article, which renounces the right

of fitting out privateers, or of capturing merchant vessels. The French treaty, therefore, is proposed as the model. In this, however, the following changes are to be made.

We should be admitted to all the dominions of Spain, to which any other foreign nation is, or may be admitted.

Article 5 being an exemption from a particular duty in France, will of course be omitted, as inapplicable to Spain.

Article 8 to be omitted, as unnecessary with Morocco, and inefficacious, and little honorable with any of the Barbary powers. But it may furnish occasion to sound Spain on the project of a convention of the powers at war with the Barbary States, to keep up, by rotation, a constant cruise of a given force on their coasts, till they shall be compelled to renounce forever, and against all nations, their predatory practices. Perhaps the infidelities of the Algerines to their treaty of peace with Spain, though the latter does not choose to break openly, may induce her to subsidize *us* to cruise against them with a given force.

Article 9 and 10, concerning fisheries, to be omitted, as inapplicable.

Article 11. The first paragraph of this article, respecting the *droit d'aubaine*, to be omitted; that law being supposed peculiar to France.

Article 17, giving asylum in the ports of either to the armed vessels of the other, with the prizes taken

from the enemies of that other, must be qualified as it is in the 19th article of the Prussian treaty; as the stipulation in the latter part of the article, "that no shelter or refuge shall be given in the ports of the one to such as shall have made prize on the subjects of the other of the parties," would forbid us in case of a war between France and Spain, to give shelter in our ports to prizes made by the latter on the former, while the first part of the article would oblige us to shelter those made by the former on the latter—a very dangerous covenant, and which ought never to be repeated in any other instance.

Article 29. Consuls should be received in all the ports at which the vessels of either party may be received.

Article 30, concerning free ports in Europe and America. Free ports in the Spanish possessions in America, and particularly at the Havana, San Domingo, in the island of that name, and St. John of Porto Rico, are more to be desired than expected. It can, therefore, only be recommended to the best endeavors of the commissioners to obtain them. It will be something to obtain for our vessels, flour, &c., admission to those ports during their pleasure. In like manner, if they could be prevailed on to re-establish our right of cutting log-wood in the bay of Campeachy, on the footing on which it stood before the treaty of 1763, it would be desirable, and not endanger, to us, any contest with the English, who,

by the Revolution treaty, are restrained to the south-eastern parts of Yucatan.

Article 31. The *act* of ratification, on our part, may require a twelvemonth from the date of the treaty, as the Senate meets regularly but once a year; and to return it to Madrid, for exchange, may require four months more. It would be better, indeed, if Spain would send her ratification to be exchanged by her representative here.

The treaty must not exceed twelve or fifteen years' duration, except the clauses relating to boundary, and the navigation of the Mississippi, which must be perpetual and final. Indeed, these two subjects had better be in a separate instrument.

There might have been mentioned a third species of arrangement, that of making special agreements on every special subject of commerce, and of setting a tariff of duty to be paid on each side, on every particular article; but this would require in our commissioners a very minute knowledge of our commerce, as it is impossible to foresee every proposition of this kind which might be brought into discussion, and to prepare them for it by information and instruction from hence. Our commerce, too, is, as yet, rather in a course of experiment, and the channels in which it will ultimately flow, are not sufficiently known to enable us to provide for it by special agreement. Nor have the exigencies of our new Government, as yet, so far developed themselves, as that we can know to what degree we may

or must have recourse to commerce for the purposes of revenue. No common consideration, therefore, ought to induce us, as yet, to arrangements of this kind. Perhaps nothing should do it with any nation, short of the privileges of natives in all their possessions, foreign and domestic.

It were to be wished, indeed, that some positively favorable stipulations respecting our grain, flour, and fish, could be obtained, even on our giving reciprocal advantages to some other commodities of Spain, say her wines and brandies.

But, 1st. If we quit the ground of the *most favored nation*, as to certain articles for our convenience, Spain may insist on doing the same for other articles for her convenience, and thus our commissioners will get themselves on the ground of a treaty of *detail*, for which they will not be prepared.

2d. If we grant favor to the wines and brandies of Spain, then Portugal and Spain will demand the same; and in order to create an equivalent, Portugal may lay a duty on our fish and grain, and France, a prohibition on our whale oils, the removal of which will be proposed as an equivalent.

This much, however, as to grain and flour, may be attempted. There has, not long since, been a considerable duty laid on them in Spain. This was while a treaty on the subject of commerce was pending between us and Spain, as that court considers the matter. It is not generally thought right to change the state of things pending a treaty con-

cerning them. On this consideration, and on the motive of cultivating our friendship, perhaps the commissioners may induce them to restore this commodity to the footing on which it was, on opening the conferences with Mr. Gardoqui, on the 26th day of July, 1785. If Spain says, "do the same by your tonnage on our vessels," the answer may be, that our foreign tonnage affects Spain very little, and other nations very much; whereas the duty on flour in Spain affects us very much, and other nations very little. Consequently, there would be no equality in reciprocal relinquishment, as there had been none in the reciprocal innovation; and Spain, by insisting on this, would, in fact, only be aiding the interests of her rival nations, to whom we should be forced to extend the same indulgence. At the time of opening the conferences, too, we had, as yet, not erected any system; our government itself being not yet erected. Innovation then was unavoidable on our part, if it be innovation to establish a system. We did it on fair and general ground; on ground favorable to Spain. But they had a system, and, therefore, innovation was avoidable on their part.

It is known to the commissioners that we found it expedient to ask the interposition of France, lately, to bring on this settlement of our boundary, and the navigation of the Mississippi. How far that interposition has contributed to produce it, is uncertain. But we have reason to believe that her further interference would not produce an agreeable effect

on Spain. The commissioners, therefore, are to avoid all further communications on the subject with the ministers of France, giving them such explanations as may preserve their good dispositions. But if, ultimately, they shall find themselves unable to bring Spain to agreement on the subject of the navigation and boundary, the interposition of France, as a mutual friend, and the guarantee of our limits, is then to be asked, in whatever light Spain may choose to consider it.

Should the negotiations on the subject of navigation and boundary assume, at any time, an unhopeful aspect, it may be proper that Spain should be given to understand, that, if they are discontinued without coming to any agreement, the Government of the United States cannot be responsible for the longer forbearance of their western inhabitants. At the same time the abandonment of the negotiation should be so managed as that, without engaging us to a further suspension of the exercise of our rights, we may not be committed to resume them on the instant. The present turbid situation of Europe cannot leave us long without a safe occasion of resuming our territory and navigation, and of carving for ourselves those conveniences, on the shores, which may facilitate and protect the latter effectually and permanently.

We had a right to expect that, pending a negotiation, all things would have remained in *statu quo*, and that Spain would not have proceeded to possess

herself of other parts of our territory. But she has lately taken and fortified a new post on the Walnut hills, above the mouth of the Yazoo river, and far above the 31st degree. This garrison ought to have been instantly dislodged; but for our wish to be in friendship with Spain, and our confidence in her assurances "to bide by the limits established in our treaty with England," complaints of this unfriendly and uncandid procedure may be brought forward or not, as the commissioners shall see expedient.

Report on the case of Charles Russell and others, claiming certain lands.

January 21, 1792.

The Secretary of State, to whom was referred, by the President of the United States, the letter of the Governor of Virginia of January 7th, 1792, with the report of a committee of the House of Delegates of that commonwealth, of December 12th, 1791, and resolution of the General Assembly thereon, of December 17th, on the case of Charles Russell, late an officer in the service of the said commonwealth, stating that a considerable part of the tract of country allotted for the officers and soldiers having fallen into the State of North Carolina on the extension of their common boundary, the legislature of the said State had, in 1781, passed an act substituting in lieu thereof the tract of country between the said boundary and the rivers Mississippi, Ohio, Tennessee, and

subjecting the same to the claims of their officers and soldiers. That the said Charles Russell had in consequence thereof, directed warrants for two thousand six hundred and sixty-six and two-thirds acres of land to be located within the said tract of country; but that the same belonging to the Chickasaws, he is unable to obtain a right thereto, and that there are other officers and soldiers of the said commonwealth under like circumstances:

Reports, That the tract of country before described is within the boundaries of the Chickasaw nation as established by the treaty of Hopewell, the 16th day of January, 1786.

That the right of occupancy of the said lands, therefore, being vested in the said nation, the case of the said Charles Russell, and other officers and soldiers of the said commonwealth, becomes proper to be referred to the legislature of the United States for their consideration.

Report relative to negotiations at Madrid.

March 7, 1792.

The Secretary of State having understood, from communications with the commissioners of his Catholic Majesty, subsequent to that which he reported to the President on the 22d of December last, that though they considered the navigation of the Mississippi as the principal object of negotiation between the two countries, yet it was expected by their court

that the conferences would extend to all the matters which were under negotiation on the former occasion with Mr. Gardoqui, and particularly to some arrangements of commerce, is of opinion, that, to renew the conferences on this subject also, since they desire it, will be but friendly and respectful, and can lead to nothing without our own consent; and that, to refuse it, might obstruct the settlement of the questions of navigation and boundary; and, therefore, reports to the President of the United States, the following observations and instructions to the commissioners of the United States, appointed to negotiate with the court of Spain a treaty or convention relative to the navigation of the Mississippi; which observations and instructions, he is of opinion, should be laid before the Senate of the United States, and their decision be desired, whether they will advise and consent that a treaty be entered into by the commissioners of the United States with Spain conformable thereto.

After stating to our commissioners the foundation of our rights to navigate the Mississippi, and to hold our southern boundary at the 31st degree of latitude, and that each of these is to be a *sine quâ non*, it is proposed to add as follows:

On the former conferences on the navigation of the Mississippi, Spain chose to blend with it the subject of commerce; and, accordingly, specific propositions thereon passed between the negotiators. Her object then was to obtain our renunciation of

the navigation, and to hold out commercial arrangements, perhaps as a lure to us. Perhaps, however, she might then, and may now, really set a value on commercial arrangements with us, and may receive them as a consideration for accommodating us in the navigation, or may wish for them to have the appearance of receiving a consideration. Commercial arrangements, if acceptable in themselves, will not be the less so, if coupled with those relating to navigation and boundary. We have only to take care that they be acceptable in themselves.

* * * * * * * *

Opinion on the Bill apportioning Representation.

April 4, 1792.

The Constitution has declared that representatives and direct taxes shall be apportioned among the several States according to their respective numbers. That the number of representatives shall not exceed one for every 30,000, but each State shall have at least one representative, and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose 3, Massachusetts 2.

The bill for apportioning representatives among the several States, without explaining any principle at all, which may show its conformity with the constitution, to guide future apportionments, says, that New Hampshire shall have 3 members, Massachusetts 16, &c. We are, therefore, to find by experiment

what has been the principle of the bill; to do which, it is proper to state the federal or representable numbers of each State, and the numbers allotted to them by the bill. They are as follows:—

		Members.
Vermont	85,532	3
New Hampshire	141,823	5
Massachusetts	475,327	16
Rhode Island	68,444	2
Connecticut	285,941	8
New York	352,915	11
New Jersey	179,556	6
Pennsylvania	432,880	14
Delaware	55,538	2
Maryland	278,513	9
Virginia	630,558	21
Kentucky	68,705	2
North Carolina	353,521	11
South Carolina	206,236	6
Georgia	70,843	2
	3,636,312	120

It happens that this representation, whether tried as between great and small States, or as between north and south, yields, in the present instance, a tolerably just result; and, consequently, could not be objected to on that ground, if it were obtained by the process prescribed in the Constitution; but if obtained by any process out of that, it becomes arbitrary and inadmissible.

The 1st member of the clause of the Constitution above cited is express, that representatives shall be apportioned among the several States according to their *respective numbers*. That is to say, they shall

be apportioned by some common ratio—for proportion, and ratio, are equivalent words; and, in the definition of *proportion among numbers*, that they have a ratio common to all, or in other words, a common divisor. Now, trial will show that there is no common ratio, or divisor, which, applied to the numbers of each State, will give to them the number of representatives allotted in this bill. For trying the several ratios of 29, 30, 31, 32, 33, the allotments would be as follows:—

	29	30	31	32	33	The Bill.
Vermont	2	2	2	2	2	3
New Hampshire	4	4	4	4	4	5
Massachusetts	16	15	15	14	14	16
Rhode Island	2	2	2	2	2	2
Connecticut	8	7	7	7	7	8
New York	12	11	11	11	10	11
New Jersey	6	5	5	5	5	6
Pennsylvania	14	14	13	13	13	14
Delaware	1	1	1	1	1	2
Maryland	9	9	8	8	8	9
Virginia	21	21	20	19	19	21
Kentucky	2	2	2	2	2	2
North Carolina	12	11	11	11	10	12
South Carolina	7	6	6	6	6	7
Georgia	2	2	2	2	2	2
	118	112	109	107	105	120

Then the bill reverses the constitutional precept, because, by it, representatives are *not* apportioned among the several States, according to their respective numbers.

It will be said that, though, for taxes, there may always be found a divisor which will apportion them

among the States according to numbers exactly, without leaving any remainder, yet, for *representatives*, there can be no such common ratio, or divisor, which, applied to the several numbers, will divide them exactly, without a remainder or fraction. I answer, then, that taxes must be divided *exactly*, and representatives *as nearly* as the *nearest ratio* will admit; and the fractions must be neglected, because the Constitution calls absolutely that there be an *apportionment or common ratio*, and if any fractions result from the operation, it has left them unprovided for. In fact it could not but foresee that such fractions would result, and it meant to submit to them. It knew they would be in favor of one part of the Union at one time, and of another at another, so as, in the end, to balance occasional irregularities. But instead of such a *single* common ratio, or uniform divisor, as prescribed by the Constitution, the bill has applied *two ratios*, at least, to the different States, to wit, that of 30,026 to the seven following: Rhode Island, New York, Pennsylvania, Maryland, Virginia, Kentucky and Georgia; and that of 27,770 to the eight others, namely: Vermont, New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, North Carolina, and South Carolina, as follows:

Rhode Island	68,444	divided	by	30,026	gives	2
New York	352,915	"	"	"	"	11
Pennsylvania	432,880	"	"	"	"	14
Maryland	278,513	"	"	"	"	9
Virginia	630,558	"	"	"	"	21
Kentucky	58,705	"	"	"	"	2
Georgia	70,843	"	"	"	"	2

Vermont	85,532	divided by	27,770	gives	3
New Hampshire	141,823	"	"	"	"	5
Massachusetts	475,327	"	"	"	"	16
Connecticut	235,941	"	"	"	"	8
New Jersey	179,556	"	"	"	"	6
Delaware	55,538	"	"	"	"	2
North Carolina	353,521	"	"	"	"	12
South Carolina	206,236	"	"	"	"	7

And if *two* ratios be applied, then *fifteen* may, and the distribution become arbitrary, instead of being apportioned to numbers. Another member of the clause of the Constitution which has been cited, says "the number of representatives shall not exceed one for every 30,000, but each State shall have at least one representative." This last phrase proves that it had no contemplation that all fractions, or *numbers below the common ratio* were to be unrepresented; and it provides especially that in the case of a State whose whole number shall be below the common ratio, one representative shall be given to it. This is the single instance where it allows representation to any smaller number than the common ratio, and by providing especially for it in this, shows it was understood that, without special provision, the smaller number would in this case, be involved in the general principle. The first phrase of the above citations, that "the number of representatives shall not exceed one for every 30,000," is violated by this bill which has given to eight States a number exceeding one for every 30,000, to wit, one for every 27,770.

In answer to this, it is said that this phrase may mean either the 30,000 *in each State*, or the 30,000

in the whole Union, and that in the latter case it serves only to find the amount of the whole representation; which, in the present state of population, is 120 members. Suppose the phrase might bear both meanings, which will common sense apply to it? Which did the universal understanding of our country apply to it? Which did the Senate and Representatives apply to it during the pendency of the first bill, and even till an advanced stage of this second bill, when an ingenious gentleman found out the doctrine of fractions, a doctrine so difficult and inobvious, as to be rejected at first sight by the very persons who afterwards became its most zealous advocates?

The phrase stands in the midst of a number of others, every one of which relates to States in their separate capacity. Will not plain common sense then, understand it, like the rest of its context, to relate to States in their separate capacities?

But if the phrase of one for 30,000 is only meant to give the aggregate of representatives, and not at all to influence their apportionment among the States, then the 120 being once found, in order to apportion them, we must recur to the former rule which does it according to the numbers of *the respective States;* and we must take the *nearest common divisor*, as the ratio of distribution, that is to say, that divisor which, applied to every State, gives to them such numbers as, added together, come nearest to 120. This nearest common ratio will be found to be 28,658, and will distribute 119 of the 120 members, leaving only

a single residuary one. It will be found too to place 96,648 fractional numbers in the eight northernmost States, and 106,582 in the seven southernmost. The following table shows it:

		Ratio, 28,658	Fraction.	
Vermont	85,832	2	27,816	
New Hampshire.....	141,823	4	26,391	
Massachusetts	475,327	16	13,599	
Rhode Island	68,444	2	10,728	
Connecticut	235,941	8	5,077	
New York	352,915	12	6,619	
New Jersey	119,856	6	6,408	
Pennsylvania	432,880	15	10	96,648
Delaware.....	55,538	1	26,680	
Maryland	278,503	9	18,191	
Virginia	630,558	21	24,540	
Kentucky	68,705	2	10,989	
North Carolina.....	353,521	12	7,225	
South Carolina	206,236	7	4,230	
Virginia	70,843	2	23,137	105,582
	3,636,312	119	202,230	202,230

Whatever may have been the intention, the effect of neglecting the nearest divisor, (which leaves but one residuary member,) and adopting a distant one (which leaves eight), is merely to take a member from New York and Pennsylvania, each, and give them to Vermont and New Hampshire. But it will be said, this is giving more than one for 30,000. True, but has it not been just said that the one for 30,000 is prescribed only to fix the aggregate number, and that we are not to mind it when we come to apportion them among the States? That for this

we must recur to the former rule which distributes them according to the numbers in each State? Besides does not the bill itself apportion among seven of the States by the ratio of 27,770? which is much more than one for 30,000.

Where a phrase is susceptible of two meanings, we ought certainly to adopt that which will bring upon us the fewest inconveniences. Let us weigh those resulting from both constructions.

From that giving to each State a member for every 30,000 in that State results the single inconvenience that there may be large portions unrepresented, but it being a mere hazard on which State this will fall, hazard will equalize it in the long run. From the others result exactly the same inconvenience. A thousand cases may be imagined to prove it. Take one. Suppose eight of the States had 45,000 inhabitants each, and the other seven 44,999 each, that is to say each one less than each of the others. The aggregate would be 674,993, and the number of representatives at one for 30,000 of the aggregate, would be 22. Then, after giving one member to each State, distribute the seven residuary members among the seven highest fractions, and though the difference of population be only an unit, the representation would be the double.

			Fractions.
1st	45,000	2	15,000
2d	45,000	2	15,000
3d	45,000	2	15,000
4th	45,000	2	15,000

			Fractions.
5th.	45,000	2	15,000
6th.	45,000	2	15,000
7th.	45,000	2	15,000
8th.	45,000	1	15,000
9th.	44,999	1	14,999
10th.	44,999	1	14,999
11th.	44,999	1	14,999
12th.	44,999	1	14,999
13th.	44,999	1	14,999
14th.	44,999	1	14,999
15th.			14,999
	674,993	22	

Here a single inhabitant the more would count as 30,000. Nor is this case imaginable, only it will resemble the real one whenever the fractions happen to be pretty equal through the whole States. The numbers of our census happen by accident to give the fractions all very small, or very great, so as to produce the strongest case of inequality that could possibly have occurred, and which may never occur again. The probability is that the fractions will generally descend gradually from 29,999 to 1. The inconvenience then of large unrepresented fractions attends both constructions; and while the most obvious construction is liable to no other, that of the bill incurs many and grievous ones.

1. If you permit the large fraction in one State to choose a representative for one of the small fractions in another State, you take from the latter its election, which constitutes real representation, and substitute a virtual representation of the disfranchised fractions,

and the tendency of the doctrine of virtual representation has been too well discussed and appreciated by reasoning and resistance on a former great occasion to need development now.

2. The bill does not say that it has given the residuary representatives *to the greatest fraction;* though in fact it has done so. It seems to have avoided establishing that into a rule, lest it might not suit on another occasion. Perhaps it may be found the next time more convenient to distribute them *among the smaller States;* at another time *among the larger States;* at other times according to any other crotchet which ingenuity may invent, and the combinations of the day give strength to carry; or they may do it arbitrarily by open bargains and cabal. In short this construction introduces into Congress a scramble, or a vendue for the surplus members. It generates waste of time, hot blood, and may at some time, when the passions are high, extend a disagreement between the two Houses, to the perpetual loss of the thing, as happens now in the Pennsylvania assembly; whereas the other construction reduces the apportionment always to an arithmetical operation, about which no two men can ever possibly differ.

3. It leaves in full force the violation of the precept which declares that representatives shall be *apportioned* among the States according to their numbers, *i. e.*, by some common ratio.

Viewing this bill either as a *violation of the constitution,* or as giving an *inconvenient exposition of its*

words, is it a case wherein the President ought to interpose his negative? I think it is.

1. The non-user of his negative begins already to excite a belief that no President will ever venture to use it; and has, consequently, begotten a desire to raise up barriers in the State legislatures against Congress, throwing off the control of the Constitution.

2. It can never be used more pleasingly to the public, than in the protection of the Constitution.

3. No invasions of the Constitution are fundamentally so dangerous as the tricks played on their own numbers, apportionment, and other circumstances respecting themselves, and affecting their legal qualifications to legislate for the union.

4. The majorities by which this bill has been carried (to wit: of one in the Senate and two in the Representatives) show how divided the opinions were there.

5. The whole of both Houses admit the Constitution will bear the other exposition, whereas the minorities in both deny it will bear that of the bill.

6. The application of any one ratio is intelligible to the people, and will, therefore be approved, whereas the complex operations of this bill will never be comprehended by them, and though they may acquiesce, they cannot approve what they do not understand.

Opinion relative to a case of recapture, by citizens of the United States, of slaves escaped into Florida, and of an American captain enticing French slaves from St. Domingo.

December 3, 1792.

Complaint has been made by the Representatives of Spain that certain individuals of Georgia entered the State of Florida, and without any application to the Government, seized and carried into Georgia, certain persons, whom they claimed to be their slaves. This aggression was thought the more of, as there exists a convention between that government and the United States against receiving fugitive slaves.

The Minister of France has complained that the master of an American vessel, while lying within a harbor of St. Domingo, having enticed some negroes on board his vessel, under pretext of employment, bought them off, and sold them in Georgia as slaves.

1. Has the general government cognizance of these offences? 2. If it has, is any law already provided for trying and punishing them?

1. The Constitution says, "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, &c., provide for the common defence and *general welfare* of the United States." I do not consider this clause as reaching the point. I suppose its meaning to be, that Congress may collect taxes for the purpose of providing for the *general welfare*, in those cases wherein the Constitution

empowers them to act for the general welfare. To suppose that it was meant to give them a distinct substantive power, to do *any act* which might tend to the *general welfare*, is to render all the enumerations useless, and to make their powers unlimited. We must seek the power therefore in some other clause of the Constitution. It says further, that Congress shall have power to "define and punish piracies and felonies committed on the high seas, and offences against the law of nations." These offences were not committed on the high seas, and consequently not within that branch of the clause. Are they against the law of nations, taken as it may be in its whole extent, as founded, 1st, in nature; 2d, usage; 3d, convention? So much may be said in the affirmative, that the legislators ought to send the case before the judiciary for discussion; and the rather, when it is considered that unless the offenders can be punished under this clause, there is no other which goes directly to their case, and consequently our peace with foreign nations will be constantly at the discretion of individuals.

2. Have the legislators sent this question before the Courts by any law already provided? The act of 1789, chapter 20, section 9, says the district courts shall have cognizance concurrent with the courts of the several States, or the circuit courts, of all causes, where an *alien sues for a tort only*, in violation of the law of nations: but what if there be no alien whose interest is such as to support an action for the tort?—

which is precisely the case of the aggression on Florida. If the act in describing the jurisdiction of the Courts, had given them cognizance of proceedings by way of indictment or information against offenders under the law of nations, for the public wrong, and on the public behalf, as well as to an individual for the special tort, it would have been the thing desired.

The same act, section 13, says, the "Supreme Court shall have exclusively all such jurisdiction of suits or proceedings against ambassadors, or other public ministers, or their domestics or domestic servants, as a court of law can have or exercise consistently, with the law of nations."—Still this is not the case, no ambassador, &c., being concerned here. I find nothing else in the law applicable to this question, and therefore presume the case is still to be provided for, and that this may be done by enlarging the jurisdiction of the courts, so that they may sustain indictments and informations on the public behalf, for offences against the law of nations.

[*A note added by Mr. Jefferson at a later period.*]

On further examination it does appear that the 11th section of the judiciary act above cited gives to the circuit courts exclusively, cognizance of all crimes and offences cognizable under the authority of the United States, and not otherwise provided for. This removes the difficulty, however, but one step

further;—for questions then arise, 1st. What is the peculiar character of the offence in question; to wit: treason, felony, misdemeanor, or trespass? 2d. What is its specific punishment—capital or what? 3d. Whence is the venue to come?

Report on Assays at the Mint, communicated to the House of Representatives, January 8, 1793.

The Secretary of State, to whom was referred, by the President of the United States, the resolution of the House of Representatives of the 29th of November, 1792, on the subject of experiments of France, England, Spain, and Portugal, reports:

That assays and experiments have been, accordingly, made at the mint, by the director, and under his care and inspection, of sundry gold and silver coins of France, England, Spain, and Portugal, and of the quantity of fine gold and alloy in each of them, and the specific gravities of those of gold given in by the director, a copy of which, and of the letter covering it, are contained in the papers marked A and B.

A.

January 7, 1793.

Sir:—I have, herewith, enclosed the result of our assays, &c., of the coins of France, England, Spain, and Portugal. In the course of the experiments, a very small source of error was detected, too late for

the present occasion, but which will be carefully guarded against in future.

I am, with the most perfect esteem, your most obedient humble servant,

DAVID RITTENHOUSE, *Director of the Mint.*

THOMAS JEFFERSON, *Secretary of State.*

B.

Assay of gold coins.

Date.		In 24 grains.				Specific gravity.
		Fine gold.		Alloy.		
		grs.	32 pts.	grs.	32 pts.	
French guineas, ...	1726	21	16	2	16	17.48
	1734	21	19	2	13	17.38
	1742	21	26	2	06	17.58
	1753	21	03	2	29	17.23
	1775	21	22	2	10	17.57
Double do.	1786	21	22	2	10	17.51
	1789	21	22	2	10	17.50
	1790	21	25	2	25	17.57
Spanish pistoles,...	1776	21	21	2	11	17.53
	1780	21	00	3	00	17.57
	1786	21	18	2	14	17.63
	1788	21	02	2	30	17.00
English guineas, ...	1755	21	28	2	04	17.78
	1777	21	31	2	01	17.75
	1785	21	30	2	02	17.78
	1788	21	31	2	01	17.79
	1789	22	03	1	03	17.78
	1791	22	01	1	31	17.74
Half johannes of Portugal	1739	21	31	2	01	17.63
	1770	22	05	2	27	17.78
	1776	22	05	1	27	17.87
	1785	21	30	2	02	17.68
	1788	21	31	2	01	17.78

Silver coins.

Date.		In 12 ounces.					
		Fine silver.			Alloy.		
		oz.	dwts.	grs.	oz.	dwt.	grs.
English half-crown of William III.		10	19	09½	1	00	14½
English shilling	1787	11	00	02½	0	19	21½
French crown	1791	10	16	00	1	04	00
Do. half-crown	1739	10	17	00	1	03	00
Do.	1792	10	16	19	1	03	05
Spanish dollar of	1772	10	15	05	1	04	19
	1782	10	14	02½	1	05	21½
	1790	10	14	00	1	06	00
	1791	10	14	21½	1	05	02½

MINT, January 7, 1793.

Assayed by Mr. David Ott, under my inspection, at the mint, in pursuance of a resolution of Congress of November 29, 1792. I have added the specific gravity of each piece of gold coin.

DAVID RITTENHOUSE, *Director of the Mint.*

Report on the petition of John Rogers, relative to certain lands on the north-east side of the Tennessee.

February 16, 1793.

The Secretary of State, to whom was referred, by the House of Representatives of the United States, the petition of John Rogers, setting forth, that as an officer of the State of Virginia, during the last war, he became entitled to two thousand acres of lands on the north-east side of the Tennessee, at its confluence with the Ohio, and to two thousand four

hundred acres in different parcels, between the same river and the Mississippi, all of them within the former limit of Virginia, which lands were allotted to him under an act of the Legislature of Virginia, before its deed of cession to the United States; that by the treaty of Hopewell, in 1786, the part of the country comprehending these lands was ceded to the Chickasaw Indians; and praying compensation for the same,

Reports, That the portion of country comprehending the said parcels of land, has been ever understood to be claimed, and has certainly been used, by the Chickasaw and Cherokee Indians for their hunting grounds. The Chickasaws holding exclusively from the Mississippi to the Tennessee, and extending their claim across that river, eastwardly, into the claims of the Cherokees, their conterminous neighbors.

That the government of Virginia was so well apprized of the rights of the Chickasaws to a portion of country within the limit of that State, that about the year 1780, they instructed their agent, residing with the southern Indians, to avail himself of the first opportunity which should offer, to purchase the same from them, and that, therefore, any act of that Legislature allotting these lands to their officers and soldiers must probably have been passed on the supposition, that a purchase of the Indian right could be made, which purchase, however, has never been made.

That, at the treaty of Hopewell, the true boundary

between the United States on the one part, and the Cherokees and Chickasaws on the other, was examined into and acknowledged, and by consent of all parties, the unsettled limits between the Cherokees and Chickasaws were at the same time ascertained, and in that part particularly, were declared to be the highlands dividing the waters of the Cumberland and Tennessee, whereby the whole of the petitioner's locations were found to be in the Chickasaw country.

That the right of occupation of the Cherokees and Chickasaws in this portion of the country, having never been obtained by the United States, or those under whom they claim it, cannot be said to have been ceded by them at the treaty of Hopewell, but only recognized as belonging to the Chickasaws, and retained to them.

That the country south of the Ohio was formerly contested between the Six Nations and the southern Indians for hunting grounds.

That the Six Nations sold for a valuable consideration to the then government their right to that country, describing it as extending from the mouth of the Tennessee upwards. That no evidence can at this time and place be procured, as to the right of the southern Indians, that is to say, the Cherokees and Chickasaws, to the same country; but it is believed that they voluntarily withdrew their claims within the Cumberland river, retaining their right so far, which consequently could not be conveyed from them, or to us, by the act of the Six Nations,

unless it be proved that the Six Nations had acquired a right to the country between the Cumberland and Tennessee rivers by conquest over the Cherokees and Chickasaws, which it is believed cannot be proved.

That, therefore, the locations of the petitioner must be considered as made within the Indian territory, and insusceptible of being reduced into his possession, till the Indian right be purchased.

That this places him on the same footing with Charles Russell and others, officers of the same State, who had located their bounty lands in like manner, within the Chickasaw lines, whose case was laid before the House of Representatives of the United States at the last session, and remains undecided on; and that the same and no other measure should be dealt to this petitioner which shall be provided for them.

Report relative to the Boundaries of the Lands between the Ohio and the Lakes, acquired by treaties from the Indians.

March 10, 1793.

The Secretary of State, according to instructions received from the President of the United States,

Reports, That, for the information of the commissioners appointed to treat with the western Indians, he has examined the several treaties entered into with them subsequent to the declaration of Independence, and relating to the lands between the

Ohio and the lakes, and also the extent of the grants, reservations, and appropriations of the same lands, made either by the United States, or by individual States within the same period, and finds that the lands obtained by the said treaties, and not so granted, reserved, or appropriated, are bounded by the following lines, to wit:

Northwardly. By a line running from the fork of the Tuscarora's branch of the Muskingum, at the crossing-place above Fort Lawrence. Westwardly (towards the portage of the Big Miami) to the main branch of that river, then down the Miami, to the fork of that river next below the old fort, which was taken by the French in 1752, thence due west to the river De la Panse, and down that river to the Wabash; which lines were established with the Wiandots, Delawares, Chippawas, and Ottawas, by the treaty of Fort McIntosh, and with the Shawanese by that of the Great Miami.

Westwardly. By the bounds of the Wabash Indians.

Eastwardly. By the million of acres appropriated to military claimants, by the resolution of Congress of October 23, 1787, and lying in the angle between the seventh range of townships counted westwardly, from the Pennsylvania boundary, and the tenth range counted from the Ohio northwardly along the said seventh, which million of acres may perhaps extend westwardly, so as to comprehend the twelfth range of townships, counted in that

direction from the Pennsylvania boundary, under which view the said twelfth range may be assumed for the eastern boundary of the territory now under consideration, from the said tenth range to the Indian line.

Southwardly. By the northern boundary of the said tenth range of townships to the Sioto river, and along the said river to what shall be the northern limits of the appropriations for the Virginia line; (which two last lines are those of the lands granted to the Sioto company,) thence along what shall be the *northern* limits of the said appropriations of the Virginia line to the little Miami, and along the same to what shall be the northern limit of one million of acres of land purchased by John C. Symmes; thence due west along the said northern limit of the said John C. Symmes, to the Great Miami, and down the same to its mouth, then along the Ohio to General Clark's lands, and round the said lands to the Ohio again, and down the same to the Wabash, or the lands of the Indians inhabiting it. Which several lines are delineated on the copy of Hutchins' map accompanying this report; the dotted parts of the delineation denoting that they are conjectural. And it is further necessary to apprize the commissioners that though the points at which these several lines touches the Ohio, are taken from actual surveys, yet the country included by the said lines, not being laid down from actual survey, their lengths and intersections with each other, and with the watercourses, as

appearing in the maps, are not at all to be relied on. No notice is here taken of the lands at the mouth of the Ohio appropriated for military bounties by the same resolution of Congress of October 22, 1787, nor of the settlement of Cahokea, Kaskaskia, Post Vincennes, &c., because these can concern no Indians but those of the Illinois and Wabash, whose interests should be transacted with themselves separately, and not be permitted to be placed under the patronage of the western Indians.

Report on the proceedings of the Secretary of State to transfer to Europe the annual fund of $40,000, *appropriated to that Department.*

April 18, 1793.

The Secretary of State thinking it his duty to communicate to the President his proceedings of the present year for transferring to Europe the annual fund of $40,000 appropriated to the Department of State, (a report whereof, was unnecessary the two former years, as monies already in the hands of our bankers in Europe were put under his orders,)

Reports, That in consequence of the President's order of March 23d, he received from the Secretary of the Treasury, March 31st, a warrant on the Treasurer for $39,500; that it being necessary to purchase private bills of exchange to transfer the money to Europe, he consulted with persons acquainted with that business, who advised him not to let it be known

that he was to purchase bills at all, as it would raise the exchange; and to defer the purchase a few days until the British packet should be gone, on which event bills generally sunk some few per cent. He therefore deferred the purchase, or giving any orders for it till April 10th, when he engaged Mr. Vaughan (whose line of business enabled him to do it without suspicion,) to make the purchase for him. He then delivered the warrant to the Treasurer, and received a credit at the Bank of the United States for $39,500, whereon he had an account opened between "The Department of State and the Bank of the United States." That Mr. Vaughan procured for him the next day the following bills:

Willing, Morris, and Swanwich, on John and Francis Baring & Co., London, £3,000=$13,000.

Walter Stewart on Joseph Birch, March, Liverpool, £400=$1,733.33.

Robert Gilmer & Co., on James Strachan and James Mackenzie, London, endorsed by Mordecai Lewis.

£200
150
250 } £600=$2,600

£4,000=$17,333 33.

Averaging 4*s*. $7\frac{8}{10}\frac{8}{0}d$. the dollar, or about $2\frac{1}{2}$ per cent. above par, which added to the one per cent loss heretofore always sustained on the government bills (which allowed but 99 florins, instead of 100 do. for

every $40) will render the fund somewhat larger this year than heretofore; that these bills being drawn on London, (for none could be got on Amsterdam but to considerable loss, added to the risk of the present possible situation of that place,) he had them made payable to Mr. Pinckney, and enclosed them to him by Captain Cutting, in the letter of April 12th, now communicated to the President, and at the same time wrote the letters of the same date to our bankers at Amsterdam and to Col. Humphreys, now also communicated to the President, which will place under his view the footing on which this business is put, and which is still subject to any change he may think proper to direct, as neither the letters, nor bills are yet gone.

The Secretary of State proposes, hereafter, to remit in the course of each quarter $10,000 for the ensuing quarter, as that will enable him to take advantage of the times when exchange is low. He proposes to direct, at this time, a further purchase of $12,166.66, (which with the $500 formerly obtained, and $17,333.33 now remitted, will make $30,000 of this year's fund,) at long sight, which circumstance with the present low rate of exchange, will enable him to remit it to advantage.

He has only further to add that he delivered to Mr. Vaughan orders on the Bank of the United States in favor of the persons themselves from whom the bills were purchased, for their respective sums.

Opinion on the question whether the United States have a right to renounce their treaties with France, or to hold them suspended till the government of that country shall be established.

April 28, 1793.

I proceed in compliance with the requisition of the President to give an opinion in writing on the general question, whether the United States have a right to renounce their treaties with France, or to hold them suspended till the government of that country shall be established?

In the consultation at the President's on the 19th inst., the Secretary of the Treasury took the following positions and consequences. France was a monarchy when we entered into treaties with it; but it has declared itself a republic, and is preparing a republican form of government. As it may issue in a republic or a military despotism, or something else which may possibly render our alliance with it dangerous to ourselves, we have a right of election to renounce the treaty altogether, or to declare it suspended till their government shall be settled in the form it is ultimately to take; and then we may judge whether we will call the treaties into operation again, or declare them forever null. Having that right of election, now, if we receive their minister without any qualifications, it will amount to an act of election to continue the treaties; and if the change they are undergoing should issue in a form which

should bring danger on us, we shall not be then free to renounce them. To elect to continue them is equivalent to the making a new treaty, at this time, in the same form, that is to say, with a clause of guarantee; but to make a treaty with a clause of guarantee, during a war, is a departure from neutrality, and would make us associates in the war. To renounce or suspend the treaties, therefore, is a necessary act of neutrality.

If I do not subscribe to the soundness of this reasoning, I do most fully to its ingenuity. I shall now lay down the principles which, according to my understanding, govern the case.

I consider the people who constitute a society or nation as the source of all authority in that nation; as free to transact their common concerns by any agents they think proper; to change these agents individually, or the organization of them in form or function whenever they please; that all the acts done by these agents under the authority of the nation, are the acts of the nation, are obligatory to them and enure to their use, and can in no wise be annulled or affected by any change in the form of the government, or of the persons administering it, consequently the treaties between the United States and France, were not treaties between the United States and Louis Capet, but between the two nations of America and France; and the nations remaining in existence, though both of them have since changed their forms of government, the treaties are not

annulled by these changes. The law of nations, by which this question is to be determined, is composed of three branches. 1. The moral law of our nature. 2. The usages of nations. 3. Their special conventions. The first of these only concerns this question, that is to say the moral law to which man has been subjected by his creator, and of which his feelings or conscience, as it is sometimes called, are the evidence with which his creator has furnished him. The moral duties which exist between individual and individual in a state of nature, accompany them into a state of society, and the aggregate of the duties of all the individuals composing the society constitutes the duties of that society towards any other; so that between society and society the same moral duties exist as did between the individuals composing them, while in an unassociated state, and their maker not having released them from those duties on their forming themselves into a nation. Compacts then, between nation and nation, are obligatory on them by the same moral law which obliges individuals to observe their compacts. There are circumstances, however, which sometimes excuse the non-performance of contracts between man and man; so are there also between nation and nation. When performance, for instance, becomes *impossible*, non-performance is not immoral; so if performance becomes *self-destructive* to the party, the law of self-preservation overrules the laws of obligation in others. For the reality of these principles I appeal

to the true fountains of evidence, the head and heart of every rational and honest man. It is there nature has written her moral laws, and where every man may read them for himself. He will never read there the permission to annul his obligations for a time, or forever, whenever they become dangerous, useless, or disagreeable; certainly not when merely useless or disagreeable, as seems to be said in an authority which has been quoted, (Vattel, p. 2, 197) and though he may, under certain degrees of danger, yet the danger must be imminent, and the degree great. Of these, it is true, that nations are to be judges for themselves; since no one nation has a right to sit in judgment over another, but the tribunal of our consciences remains, and that also of the opinion of the world. These will revise the sentence we pass in our own case, and as we respect these, we must see that in judging ourselves we have honestly done the part of impartial and rigorous judges.

But reason which gives this right of self-liberation from a contract in certain cases, has subjected it to certain just limitations.

I. The danger which absolves us must be great, inevitable and imminent. Is such the character of that now apprehended from our treaties with France? What is that danger? 1st. Is it that if their government issues in a military despotism, an alliance with them may taint us with despotic principles? But their government when we allied ourselves to it, was

perfect despotism, civil, and military, yet the treaties were made in that very state of things, and, therefore, that danger can furnish no just cause.

2d. Is it that their government may issue in a republic, and too much strengthen our republican principles? But this is the hope of the great mass of our constituents, and not their dread. They do not look with longing to the happy mean of a limited monarchy.

3d. But, says the doctrine I am combatting, the change the French are undergoing, may possibly end in something we know not what, and may bring on us danger we know not whence. In short, it may end in a Raw-head and bloody bones in the dark. Very well—let Raw-head and bloody bones come. We shall be justified in making our peace with him by renouncing our ancient friends and his enemies; for observe, it is not the *possibility of danger* which absolves a party from his contract, for that possibility always exists, and in every case. It existed in the present one, at the moment of making the contract. If *possibilities* would void contracts, there never could be a valid contract, for possibilities hang over everything. Obligation is not suspended till the danger is become real, and the moment of it so imminent, that we can no longer avoid decision without forever losing the opportunity to do it. But can a danger which has not yet taken its shape, which does not yet exist, and never may exist which cannot therefore be defined—can such a danger, I

ask, be so imminent that if we fail to pronounce on it in this moment, we can never have another opportunity of doing it?

4. As to the danger apprehended, Is it that (the treaties remaining valid) the clause guaranteeing their West Indian lands will engage us in the war? But does the guarantee engage us to enter into the war on any event? Are we to enter into it before we are called on by our allies?

Have we been called on by them? Shall we ever be called on?

Is it their interest to call on us?

Can they call on us before their islands are invaded, or immediately threatened?

If they can save themselves, have they a right to call on us?

Are we obliged to go to war at once, without trying peaceable negotiations with their enemy?

If all these questions are against us, there are still others left behind.

Are we in a condition to go to war?

Can we be expected to begin before we are in condition?

Will the islands be lost if we do not save them?

Have we the means of saving them?

If we cannot save them, are we bound to go to war for a desperate object?

Many, if not most of these questions offer grounds of doubt whether the clause of guarantee will draw us into the war. Consequently, if this be danger

apprehended, it is not yet certain enough to authorize us in sound morality to declare, at this moment, the treaties null.

5. Is danger apprehended from the 17th article of the treaty of commerce, which admits French ships of war and privateers to come and go freely, with prizes made on their enemies, while their enemies are not to have the same privilege with prizes made on the French? But Holland and Prussia have approved of this article in our treaty with France, by subscribing to an express salvo of it in our treaties with them. (Dutch treaty 22, convention 6. Prussian treaty 19.) And England, in her last treaty with France, (Art. 40,) has entered into the same stipulation verbatim, and placed us in her ports on the same footing in which she is in ours, in case of a war of either of us with France. If we are engaged in such a war, England must receive prizes made on us by the French, and exclude those made on the French by us. Nay, further; in this very article of her treaty with France, is a salvo of any similar article in any anterior treaty of either party; and ours with France being anterior, this salvo confirms it expressly. Neither of these three powers, then, have a right to complain of this article in our treaty.

6. Is the danger apprehended from the 22d article of our treaty of commerce, which prohibits the enemies of France from fitting out privateers in our posts, or selling their prizes here; but we are free

to refuse the same thing to France, there being no stipulation to the contrary; and we ought to refuse it on principles of fair neutrality.

7. But the reception of a minister from the republic of France, without qualifications, it is thought, will bring us into danger; because this, it is said, will determine the continuance of the treaty, and take from us the right of self-liberation, when at any time hereafter our safety would require us to use it. The reception of the minister at all, (in favor of which Colonel Hamilton has given his opinion, though reluctantly, as he confessed,) is an acknowledgment of the legitimacy of their government; and if the qualifications meditated are to deny that legitimacy, it will be a curious compound which is to admit and to deny the same thing. But I deny that the reception of a minister has anything to do with the treaties. There is not a word in either of them about sending ministers. This has been done between us under the common usage of nations, and can have no effect either to continue or annul the treaties.

But how can any act of election have the effect to continue a treaty which is acknowledged to be going on still?—for it was not pretended the treaty was void, but only voidable if we choose to declare it so. To make it void, would require an act of election, but to let it go on, requires only that we should do nothing; and doing nothing can hardly be an infraction of peace or neutrality.

But I go further and deny that the most explicit declaration made at this moment that we acknowledge the obligation of the treaties, could take from us the right of non-compliance at any future time, when compliance would involve us in great and inevitable danger.

I conclude, then, that few of these sources threaten any danger at all; and from none of them is it inevitable; and consequently, none of them give us the right at this moment of releasing ourselves from our treaties.

II. A second limitation on our right of releasing ourselves, is that we are to do it from so much of the treaties only as is bringing great and inevitable danger on us, and not from the residue, allowing the other party a right at the same time, to determine whether on our non-compliance with that part, they will declare the whole void. This right they would have, but we should not. (Vattel, 2. 202.) The only part of the treaty which can really lead us into danger, is the clause of guarantee. That clause is all that we could suspend in any case, and the residue will remain or not at the will of the other party.

III. A third limitation is that when a party from necessity or danger withholds compliance with part of a treaty, it is bound to make compensation where the nature of the case admits and does not dispense with it. (2 Vattel, 324. Wolf, 270. 443.) If actual circumstances excuse us from entering into the war

under the clause of guarantee, it will be a question whether they excuse us from compensation. Our weight in the war admits of an estimate; and that estimate would form the measure of compensation.

If, in withholding a compliance with any part of the treaties, we do it without just cause or compensation, we give to France a cause of war, and so become associated in it on the other side. An injured friend is the bitterest of foes, and France has not discovered either timidity, or over-much forbearance on the late occasions. Is this the position we wish to take for our constituents? It is certainly not the one they would take for themselves.

I will proceed now to examine the principal authority which has been relied on for establishing the right of self-liberation; because though just in part, it would lead us far beyond justice, if taken in all the latitude of which his expressions would admit. Questions of natural right are triable by their conformity with the moral sense and reason of man. Those who write treatises of natural law, can only declare what their own moral sense and reason dictate in the several cases they state. Such of them as happen to have feelings and a reason coincident with those of the wise and honest part of mankind, are respected and quoted as witnesses of what is morally right or wrong in particular cases. Grotius, Puffendorf, Wolf, and Vattel are of this number. Where they agree their authority is strong; but where they differ, (and they often

differ,) we must appeal to our own feelings and reason to decide between them. The passages in question shall be traced through all these writers; that we may see wherein they concur, and where that concurrence is wanting. It shall be quoted from them in the order in which they wrote, that is to say, from Grotius first, as being the earliest writer, Puffendorf next, then Wolf, and lastly Vattel, as latest in time.

GROTIUS 2. 16. 16.

Hither must be referred the common question concerning personal and real treaties. If indeed it be with a free people, there can be no doubt but that the engagement is in its nature real, because the subject is a permanent thing, and even though the government of the State be changed into a kingdom, the treaty remains; because the same body remains though the head is changed; and as it was before now, the government which is exercised by a king does not cease to be the government of the people. There is an exception when the object seems peculiar to the government, as if free cities contract a league for the defence of their freedom.

PUFFENDORF 8. 9. 6.

It is certain that every alliance made with a republic is real in its nature, and continues consequently to the term agreed on by the treaty, although the magistrates who concluded it be dead before, so that the form of government is changed even from a democracy to a monarchy; for in this case the people do not cease to be the same, and the king, in the case supposed, being established by the consent of the people who abolished the republican government, is understood to accept the crown with all the engagements which the people confessing it had contracted as being free and governing themselves. There must nevertheless be an exception of the alliances contracted with a view to preserve the present government; as if two republics league for mutual defence against those who would undertake to invade their liberty; for if one of these two people consent afterwards voluntarily to change the form of the government, the alliance ends of itself, because the reason on which it was founded no longer subsists.

WOLF 1146.

The alliance which is made with a free people, or with a popular government, is a real alliance; and as when the form of government changes, the people remain the same (for it is the association which forms the people, and not the manner of administering the government). This alliance subsists, though the form of government changes, *unless*, as is evident, the reason of the alliance was particular to the popular state.

VATTEL 2. 197.

The same question presents itself in real alliances, and in general on every alliance made with a State, and not in particular with a king for the defence of his person. We ought, without doubt, to defend our ally against all invasion, against all foreign violence, and even against rebel subjects. We ought, in like manner, to defend a republic against the enterprises of an oppressor of the public liberty. But we ought to recollect that we are the ally of the state or of the nation, and not its judge. If the nation has deposed its king in form; if the people of a republic have driven away its magistrates, and have established themselves free, or if they have acknowledged the authority of an usurper, whether expressly or tacitly, to oppose these domestic arrangements —to contest their justice or validity—would be to meddle with the government of the nation, and to do it an injury. The ally remains the ally of the state, notwithstanding the change which has taken place; *but if this change renders the alliance useless, dangerous, or disagreeable to it, it is free to renounce it; for it may say with truth, that it would not have allied itself with this nation, if it had been under the present form of its government.*

The doctrine then of Grotius, Puffendorf, and Wolf is, that "treaties remain obligatory, notwithstanding any change in the form of government, except in the single case, where the preservation of that form was the object of the treaty;" there the treaty extinguishes, not by the election or declaration of the party remaining in *statu quo*, but independently of that, by the evanishment of the object. Vattel lays down in fact the same doctrine, that treaties continue obligatory, notwithstanding a change of government by the will of the other party;—that to oppose that will would be a wrong; and that the ally remains an ally, notwithstanding the change. So far he concurs with all the previous writers:—but he then adds what they had not said nor could say; but if this change renders the alliance *useless*, *dangerous* or *disagreeable* to it, it is free to renounce it. It was unnecessary for him to have specified the exception of *danger* in this particular case, because the exception exists in all cases, and its extent has been considered; but when he adds that, because a contract is become merely *useless* or *disagreeable* we are free to renounce it,—he is in opposition to Grotius, Puffendorf, and Wolf, who admit no such license against the obligation of treaties, and he is in opposition to the morality of every honest man to whom we may safely appeal to decide whether he feels himself free to renounce a contract the moment it becomes *merely useless* or *disagreeable* to him. We may appeal to Vattel

himself in those parts of his book where he cannot be misunderstood, and to his known character, as one of the most zealous and constant advocates for the preservation of good faith in all our dealings. Let us hear him on other occasions; and first where he shows what degree of danger or injury will authorize self-liberation from a treaty: "If simple lesion," (lesion—the loss sustained by selling a thing for less than half value, which degree of loss renders the sale void by the Roman law,) "if simple lesion," says he, "or some degree of disadvantage in a treaty does not suffice to render it invalid, it is not so as to inconvenience which would go to the *ruin* of the nation. As every treaty ought to be made by sufficient power, a treaty pernicious to the State is null, and not at all obligatory. No governor of a nation having power to engage things capable of *destroying* the State, for the safety of which the empire entrusts to him, the nation itself, bound necessarily to whatever its preservation and safety require, cannot enter into engagements contrary to its indispensable obligations." Here then we find that the degree of injury or danger which he deems sufficient to liberate us from a treaty, is that which would go to the absolute ruin or destruction of the State;—not simply the lesion of the Roman law, not merely the being disadvantageous or dangerous; for as he himself says, Section 158, "lesion cannot render a treaty invalid. It is his duty who enters into engagements, to weigh well all things before he concludes. He

may do with his property what he pleases. He may relinquish his rights or renounce his advantages, as he judges proper. The acceptant is not obliged to inform himself of his motives nor to weigh their just value. If we could free ourselves from a compact because we find ourselves injured by it, there would be nothing firm in the contracts of nations. Civil laws may set limits to lesion, and determine the degree capable of producing a nullity of the contract; but sovereigns acknowledge no judge. How establish lesion among them? Who will determine the degree sufficient to invalidate a treaty? The happiness and peace of nations require manifestly that their treaties should not depend on a means of nullity so vague and so dangerous."

Let us hear him again on the general subject of the observation of treaties, Section 163: "It is demonstrated in natural law that he who promises another, confers on him a perfect right to require the thing promised, and that consequently, not to observe a perfect promise is to violate the right of another; it is as manifest injustice as to plunder any one of their right. All the tranquillity, the happiness and security of mankind, rest on justice or the obligation to respect the rights of others. The respect of others for our right of domain and property is the security of our actual possessions. The faith of promises is the security for the things which cannot be delivered or executed on the spot. No more security, no more commerce among men, if they

think themselves not bound to preserve faith, to keep their word. This obligation, then, is as necessary as it is natural and indubitable among nations who live together in a state of nature, and who acknowledge no superior on earth. To maintain order and peace in their society, nations and their governors then ought to observe inviolably their promises and their treaties. This is a great truth, although too often neglected in practice, is generally acknowledged by all nations, the reproach of perfidy is a bitter affront among sovereigns. Now he who does not observe a treaty is assuredly perfidious, since he violates his faith. On the contrary, nothing is so glorious to a prince and his nation as the reputation of inviolable fidelity to his word." Again, Section 219, "Who will doubt that treaties are of the things sacred among nations? They decide matters the most important; they impose rules on the pretensions of sovereigns; they cause the rights of nations to be acknowledged; they assume their most precious interests. Among political bodies, sovereigns, who acknowledge no superior on earth, treaties are the only means of adjusting their different pretensions; of establishing a rule, to know on what to count, on what to depend. But treaties are but vain words, if nations do not consider them as respectable engagements, as rules inviolable for sovereigns, and sacred through the whole earth." Section 220: "The faith of treaties, that firm and sincere will, that invincible constancy in fulfilling

engagements, of which a declaration is made in a treaty, is then holy and sacred among nations, whose safety and repose it ensures; and if nations will not be wanting to themselves, they will load with infamy whoever violates his faith."

After evidence so copious and explicit of the respect of this author for the sanctity of treaties, we should hardly have expected that his authority would have been resorted to for a wanton invalidation of them whenever they should become merely *useless or disagreeable*. We should hardly have expected that, rejecting all the rest of his book, this scrap would have been culled and made the hook whereon to hang such a chain of immoral consequences. Had the passage accidentally met our eye, we should have imagined it had fallen from the author's pen under some momentary view, not sufficiently developed to found a conjecture what he meant, and we may certainly affirm that a fragment like this cannot weigh against the authority of all other writers; against the uniform and systematic doctrine of the very work from which it is torn; against the moral feelings and the reason of all honest men. If the terms of the fragment are not misunderstood, they are in full contradiction to all the written and unwritten evidences of morality. If they are misunderstood, they are no longer a foundation for the doctrines which have been built on them.

But even had this doctrine been as true as it is

manifestly false, it would have been asked, to whom is it that the treaties with France have become *disagreeable?* How will it be proved that they are *useless?*

The conclusion of the sentence suggests a reflection too strong to be suppressed, "for the party may say with truth that it would not have allied itself with this nation if it had been under the present form of its government." The republic of the United States allied itself with France when under a despotic government. She changes her government, and declares it shall be a republic; prepares a form of republic extremely free, and in the meantime is governing herself as such. And it is proposed that America shall declare the treaties void, because it may say with truth that it would not have allied itself with that nation if it had been under the present form of its government. Who is the American who can say with truth that he would not have allied himself to France if she had been a republic? Or that a republic of any form would be as *disagreeable* as her ancient despotism?

Upon the whole I conclude, that the treaties are still binding, notwithstanding the change of government in France; that no part of them but the clause of guarantee holds up *danger*, even at a distance, and consequently that a liberation from no other part would be prepared in any case; that if that clause may ever bring *danger*, it is neither extreme nor imminent, nor even probable that the authority

for renouncing a treaty, when *useless or disagreeable*, is either misunderstood or in opposition to itself, to all other writers, and to every moral feeling; that were it not so, these treaties are in fact neither useless nor disagreeable; that the receiving a minister from France at this time is an act of no significance with respect to the treaties, amounting neither to an admission nor denial of them, forasmuch as he comes not under any stipulation in them; that were it an explicit admission, or were it an express declaration of their obligation now to be made, it would not take from us that right which exists at all times, of liberating ourselves when an adherence to the treaties would be *ruinous* or *destructive* to the society; and that the not renouncing the treaties now is so far from being a breach of neutrality, that the doing it would be the breach, by giving just cause of war to France.

Opinion relative to granting of passports to American vessels.

May 3, 1793.

It has been stated in our treaties with the French, Dutch and Prussians, that when it happens that either party is at war, and the other neutral, the neutral shall give passports of a certain tenor to the *vessels belonging to their subjects*, in order to avoid dissension; and it has been thought that passports of such high import to the persons and property of

our citizens should have the highest sanction; that of the signature of the President, and seal of the United States. The authority of Congress also, in the case of sea letters to East India vessels, was in favor of this sanction. It is now become a question whether these passports shall be given only to ships *owned and built* in the United States, or may be given also to those *owned* in the United States, though *built* in foreign countries.

The persons and property of our citizens are entitled to the protection of our government in all places where they may lawfully go. No laws forbid a merchant to buy, own, and use a *foreign-built* vessel. She is, then, his lawful property, and entitled to the protection of his nation whenever he is lawfully using her.

The laws indeed, for the encouragement of ship building, have given to home-built vessels the exclusive privilege of being registered and paying lighter duties. To this privilege, therefore, the foreign-built vessel, though owned at home, does not pretend. But the laws have not said that they withdraw their protection from the foreign-built vessel. To this protection, then, she retains her title, notwithstanding the preference given to the home-built vessel as to duties. It would be hard indeed because the law has given one valuable right to home-built vessels, to infer that it had taken away all rights from those foreign-built.

In conformity with the idea that all the vessels of

a State are entitled to its protection, the treaties before mentioned have settled that passports shall be given, not merely to the vessels *built* in the United States, but to the vessels belonging to them; and when one of these nations shall take a vessel, if she has not such a passport, they are to conclude she does not *belong* to the United States, and is therefore lawful prize; so that to refuse these passports to foreign-built vessels *belonging* to our merchants, is to give them up to capture with their cargoes. The most important interests of the United States hang upon this question. The produce of the earth is their principal source of wealth. Our *home-built* vessels would suffice for the transportation of a very small part of this produce to market, and even a part of these vessels will be withdrawn by high premiums to other lines of business. All the rest of our produce, then, must remain on our hands, or have its price reduced by a war insurance. Many descriptions of our produce will not bear this reduction, and would, therefore, remain on hand.

We shall lose also a great proportion of the profits of navigation. The great harvest for these is when other nations are at war, and our flag neutral. But if we can augment our stock of shipping only by the slow process of building, the harvest will be over while we are only preparing instruments to reap it. The moment of breeding seamen will be lost for want of bottoms to embark them in.

France and Holland permit our vessels to be

neutralized with them; not even to suffer theirs to be purchased here might give them just cause to revoke the privilege of naturalization given to ours, and would inflict on the ship-building States and artizans a severe injury.

Objection. To protect foreign-built vessels will lessen the demand for ship building here.

Answer. Not at all; because as long as we can build cheaper than other nations, we shall be employed in preference to others; besides, shall we permit the greatest part of the produce of our fields to rot on our hands, or lose half its value by subjecting it to high insurance, merely that our ship builders may have brisker employ? Shall the whole mass of our farmers be sacrificed to the class of ship wrights?

Objection. There will be collusive transfers of foreign ships to our merchants, merely to obtain for them the cover of our passports.

Answer. The same objection lies to giving passports to home-built vessels. They may be owned, and are owned by foreigners, and may be collusively re-transferred to our merchants to obtain our passports. To lessen the danger of collusion, however, I should be for delivering passports in our own ports only. If they were to be sent blank to foreign ports to be delivered there, the power of checking collusion would be small, and they might be employed to cover purposes of no benefit to us (which we ought not to countenance), and to throw our vessels out

of business; but if issued only to vessels in our own ports, we can generally be certain that the vessel is our property; and always that the *cargo* is of our produce. State the case that it shall be found that all our shipping, home-built and foreign-built, is inadequate to the transportation of our produce to market; so that after all these are loaded, there shall yet remain produce on hand. This must be put into vessels owned by foreigners. Should these obtain collusively the protection of our passport, it will cover their *vessel* indeed, but it will cover also our *cargo*. I repeat it then, that if the issuing passports be confined to our ports, it will be our own *vessels* for the most part, and always our *cargoes* which will be covered by them.

I am, therefore, of opinion, that passports ought to be issued to all vessels *belonging* to citizens of the United States, but only on their clearing out from our own ports, and for that voyage only.

Opinion relative to case of a British vessel captured by a French vessel, purchased by French citizens, and fitted out as a Privateer in one of our ports.

May 16, 1793.

The facts suggested, or to be taken for granted, because the contrary is not known, in the case now to be considered, are, that a vessel was purchased at Charleston, and fitted out as a privateer by French citizens, manned with foreigners chiefly, but partly

with citizens of the United States. The command given to a French citizen by a regular commission from his government; that she has made prize of an English vessel in the open sea, and sent her into Philadelphia. The British minister demands restitution, and the question is, whether the Executive of the United States shall undertake to make it?

This transaction may be considered, 1st, as an offence against the United States; 2d, as an injury to Great Britain.

In the first view it is not now to be taken up. The opinion being, that it has been an act of disrespect to the jurisdiction of the United States, of which proper notice is to be taken at a proper time.

Under the second point of view, it appears to me wrong on the part of the United States (where not constrained by treaties) to permit one party in the present war to do what cannot be permitted to the other. We cannot permit the enemies of France to fit out privateers in our ports, by the 22d article of our treaty. We ought not, therefore, to permit France to do it; the treaty leaving us free to refuse, and the refusal being necessary to preserve a fair neutrality. Yet considering that the present is the first case which has arisen; that it has been in the first moment of the war, in one of the most distant ports of the United States, and before measures could be taken by the government to meet all the cases which may flow from the infant state of our government, and novelty of our position, it ought

to be placed by Great Britain among the accidents of loss to which a nation is exposed in a state of war, and by no means as a premeditated wrong on the part of the government. In the last light it cannot be taken, because the act from which it results placed the United States with the offended, and not the offending party. Her minister has seen himself that there could have been on our part neither permission nor connivance. A very moderate apology then from the United States ought to satisfy Great Britain.

The one we have made already is ample, to wit, a pointed disapprobation of the transaction, a promise to prosecute and punish according to law such of our citizens as have been concerned in it, and to take effectual measures against a repetition. To demand more would be a wrong in Great Britain; for to demand satisfaction *beyond* what is adequate, is wrong. But it is proposed further to take the prize from the captors and restore her to the English. This is a very serious proposition.

The dilemma proposed in our conferences, appears to me unanswerable. Either the commission to the commander of the privateer was good, or not good. If not good, then the tribunals of the country will take cognizance of the transaction, receive the demand of the former owner, and make restitution of the capture; and there being, on this supposition, regular remedy at law, it would be irregular for the government to interpose. If the commission be

good, then the capture having been made on the high seas, under a valid commission from a power at war with Great Britain, the British owner has lost all his right, and the prize would be deemed good, even in his own courts, were the question to be brought before his own courts. He has now no more claim on the vessel than any stranger would have who never owned her, his whole right being transferred by the laws of war to the captor.

The legal right then being in the captors, on what ground can we take it from him? Not on that of *right*, for the right has been transferred to him. It can only be by an act of *force*, that is to say, of reprisal for the offence committed against us in the port of Charleston. But the making reprisal on a nation is a very serious thing. Remonstrance and refusal of satisfaction ought to precede; and when reprisal follows, it is considered as an act of war, and never yet failed to produce it in the case of a nation able to make war; besides, if the case were important enough to require reprisal, and ripe for that step, Congress must be called on to take it; the right of reprisal being expressly lodged with them by the Constitution, and not with the Executive.

I therefore think that the satisfaction already made to the *government* of Great Britain is quite equal to what ought to be desired in the present case; that the property of the British *owner* is transferred by the laws of war to the *captor;* that for us to take it from the captor would be an act of force

or reprisal, which the circumstances of the case do not justify, and to which the powers of the Executive are not competent by the Constitution.

Opinion on the proposition of the Secretary of the Treasury to open a new Loan.

June 5, 1793.

Instructions having been given to borrow two millions of florins in Holland, and the Secretary of the Treasury proposing to open a further loan of three millions of florins, which he says "a comprehensive view of the affairs of the United States, in various relations, appears to him to recommend," the President is pleased to ask whether I see any objections to the proposition?

The power to borrow money is confided to the President by the two acts of the 4th and 12th of August, 1790, and the monies, when borrowed, are appropriated to two purposes only; to wit, the twelve millions to be borrowed under the former, are appropriated to discharge the arrears of interest and instalments of the foreign debt; and the two millions, under the latter, to the purchase of the public debt, under direction of the trustees of the sinking fund.

These appropriations render very simple the duties of the President in the discharge of this trust. He has only to look to the *payment* of the foreign debt, and the purchase of the general one. And in order to judge for himself of the necessity of the loan

proposed for effecting these two purposes, he will need from the treasury the following statements:

A. A statement of the nett amount of the loans already made under these acts, adding to that the two millions of florins now in course of being borrowed. This will form the *debit* of the trust.

The *credit* side of the account will consist of the following statements, to wit:—

B. Amount of the principal and interest of foreign debt, paid and payable, to the close of 1792.

C. Ditto, payable to the close of 1793.

D. Ditto, payable to the close of 1794 (for I think our preparations should be a year beforehand).

E. Amount of monies necessary for the sinking fund to the end of 1794.

If the amount of the four last articles exceeds the first, it will prove a further loan necessary, and to what extent.

The treasury alone can furnish these statements with perfect accuracy. But to show that there is probable cause to go into the examination, I will hazard a statement from materials which, though perhaps not perfectly exact, are not much otherwise.

Report of January 3, 1793. New Edition.

Dr.

The trust for loans.

A.	To nett amount of loans to June 1, 1792, as stated in the treasury report, to wit, 18,678,000 florins, at 99 florins to $40, the treasury exchange	$7,545,912
	To loan now going on for 2,000,000 florins	808,080
		$8,353,992

	Cr.		
		Florins.	
B.	By charges on remittances to France..	10,073 1	
	By reimbursement to Spain.....	680,000	
	By interest paid to foreign officers	105,000	
		795,093 1	= $321,239 46
	By principal paid to foreign officers...		191,316 90
	By amount of French debt, principal	Livres.	
	and interest, payable to end of 1791.	26,000,000	
	By ditto, for 1792.....	3,450,000	
		29,450,000	= 5,345,171
C.	By ditto, for 1793	3,410,000	= 618,915
D.	By ditto, for 1794	3,250,00	= 569,875
E.	By necessary for sinking fund at $50,-		
	000 a month, from July 1, 1793, to		
	Dec. 31, 1794.....		900,000
	Balance which will remain in hands of		
	the trust, at end of 1794		387,474 64
			$8,353,992 00

So that instead of an additional loan being necessary, the monies already borrowed will suffice for all the purposes to which they can be legally applied to the end of 1794, and leave a surplus of $387,474.64 to cover charges and errors. And as, on account of the unsettled state of the French government, it is not proposed to pay in advance, or but little so, any further sum would be lying at a dead interest and risk. Perhaps it might be said that new monies must be borrowed for the current domestic service of the year. To this I should answer, that no law has authorized the opening of a loan for this purpose.

If it should be said that the monies heretofore borrowed are so far put out of our power that we

cannot command them before an instalment will be due, I should answer, that certainly I would rather borrow than fail in a payment; but if borrowing will secure a payment in time, the two millions of florins now borrowing are sufficient to secure it. If we cannot get this sum in time, then we cannot get an additional sum in time.

The above account might be stated in another way, which might, perhaps, be more satisfactory, to wit:

Dr.

The trust for loans.

To nett amount of loans to June 1, 1792. 18,678,000 florins, at 99 florins to $40		$7,545,912

Cr.

	Florins.		
By charges on remittances to France	10,073 1		
By reimbursement to Spain	680,000		
By interest paid to foreign officers	105,000		
	795,073 1	= $321,239	46
By principal paid to foreign officers		191,316	90
By payments to France	10,073,043 8	= 4,069,918	54
	Livres.		
By ditto to St. Domingo	4,000,000	= 726,000	
By ditto to do.	3,000,000	= 544,500	
By do. to Mr. Ternant [I state this by memory]	24,000	= 4,356	
Balance in hand to be carried to new debit		1,688,581	10
		$7,545,912	00

Dr.

The trust for loans.

To balance as per contra	$1,688,581 10
To two millions of florins, new loan, when effected.	808,080
	$2,496,661 10

Cr.

By the following payments when made, to wit:			
Balance due to France, to close of year 1792 ($5,345,171—$5,344,774 54)	Livres.		$396 46
Instalments and interest to close of year 1793	3,410,000	=	618 915
do. do. 1794	3,250,000	=	589,875
Necessary for sinking fund from July 1, 1793, to December 31, 1794 ..			900,000
Balance will then be in hand to be carried to new debit			387,474 64
			$2,496,661 10

By this statement, it would seem as if all the payments to France, hitherto made and ordered, would not acquit the year 1792. So that we have never yet been clear of arrears to her.

The amount of the French debt is stated according to the convention, and the interest is calculated accordingly. Interest on the ten million loan is known to have been paid for the years 1784, 1785, and is therefore deducted. It is not known whether it was paid on the same loan for the years 1786–7–8–9, previous to the payment of December 3, 1790, or whether it was included in that payment; therefore this is not deducted. But if, in fact, it was paid before that day, it will then have lessened the debt so much, to wit, 400,000 livres a year, for four years, making 1,600,000 florins, equal to $290,400, which sum would put us in advance near half of the instalments of 1793. Note,—livres are estimated at $\frac{18}{100}$

cents, proposed by the Secretary of the Treasury to the French ministry as the par of the metals, to be the rate of conversion.

This uncertainty with respect to the true state of our account with France, and the difference of the result from what has been understood, shows that the gentlemen who are to give opinions on this subject, must do it in the dark, and suggests to the President the propriety of having an exact statement of the account with France communicated to them, as the ground on which they are to give opinions. It will probably be material in that about to be given on the late application of Mr. Genet, on which the Secretary of the Treasury is preparing a report.

Opinion relative to the policy of a new loan.

June 17, 1793.

I cannot see my way clear in the case which the President has been pleased to ask my opinion, but by recurring to these leading questions:

Of the $7,898,999 88 borrowed, or rather of the $7,545,912, nett proceeds thereof, how much has been applied to the *payment* of the *foreign*, and *purchase* of the *general* debt?

To the balance thereof, which should be on hand, and the two millions of florins now borrowing, is any and what addition necessary, *for the same objects*, for the years 1793, 1794?

The statement furnished by the Secretary of the Treasury does not answer these questions. It only shows what has been done with somewhat less than three millions out of near eight millions of dollars which have been borrowed, and in so doing it takes credit for two sums which are not to come out of this sum, and therefore not to be left in the account. They are the following:

1. A sum of $284,901.89 expended in purchases of the public debt. In the general report of the trustees of the sinking fund, made to Congress the 23d of February last, and printed, it appears, page 29, that the whole amount of monies laid out by them was $1,302,407.64, from which were to be deducted, as is mentioned in the note there subjoined, the purchases made out of the interest fund (then about $50,000 as well as I recollect). Call the sum paid then $1,252,407.64. By the Treasury report, p. 38, (new edition,) it appears that the surplus of domestic revenue to the end of 1790, appropriated to this object, was $1,374,656.40, and p. 34, that the monies drawn from Europe on account of the foreign loans, were not the instrument of these purchases; and in some part, to which I am not able just now to turn, I recollect pretty certainly that it is said these purchases were actually carried to account, as was proper, against the domestic surplus, consequently they are not to be allowed in the foreign account also. Or if allowed in this, the sum will then be due from the surplus account, and so

must lessen the sum to be borrowed for the sinking fund, which amounts to the same.

2. The first instalment due to the bank $200,000. Though the first payment of the subscription of the United States to the bank might have been made, in the first instant, out of the foreign monies to be immediately repaid to them by the money borrowed of the bank, yet this useless formality was avoided, and it was a mere operation of the pen on paper, without the displacement of a single dollar. See reports p. 12. And, in any event, the final reimbursement was never to be made out of the foreign fund, which was appropriated solely to the *payment* of the *foreign*, and *purchase* of the *general* debt.

These two sums, therefore, of $284,901.89 and $200,000 are to be added to the balance of $575,-484.28 subject to future disposition, and will make $1,050,386.17 actually here, and still to be applied to the proper appropriation.

However, this account, as before observed, being only of a part of the monies borrowed, no judgment can be formed from it of the expediency of borrowing more; nor should I have stopped to make a criticism on it, but to show why no such sums as the two above mentioned, were inserted in the general account sketched for the President, June 5. I must add that the miscellaneous sum of $49,400 in this account, is probably covered by some other articles of that as far as it is chargeable on this fund; because that account, under one form or another, takes up

all the articles chargeable on this fund which had appeared in the printed reports.

I must, therefore, proceed to renew my statement of June 5, inserting therein the first instalment of the Dutch loan of $404,040.40 payable this month, which not having been mentioned in any of the reports heretofore published, was not inserted in my statement. I will add a like sum for the year 1794, because I think we should now prepare for the whole of that year.

As the Secretary of the Treasury does not seem to contemplate the furnishing any fixed sum for the sinking fund, I shall leave that article out of the account. The President can easily add to its result any sum he may decide to have furnished to that fund. The account, so corrected, will stand thus:

Dr.

The trust for loans.

To nett amount of loans to June 1, 1792.....		$7,545,912
To loan now going on for 2,000,000 florins.....		808,080
		$8,353,992

Cr.

	Florins.		
By charges on remittances to France.	10,073	1	
By reimbursement to Spain.....	680,000		
By interest paid to foreign officers...	105,000		
	795,073	1	= $321,239 46
By principal paid to foreign officers..			191,316 90
By amount of French debt, principal	Livres.		
and interest, payable to end of 1791	26,000,000		
By ditto for 1792.....	3,450,000		
	29,450,000		= 5,345,171

	Livres.		
By ditto for 1793	3,410,000	=	618,915
By 1st instalment of Dutch debt due June, 1793			404,040 40
By instalments and interest to France for 1794	3,250,000	=	569,875
By instalment to Holland for 1794			404,040 40
Balance will then remain in hands of the trust,			499,393 84
			$8,353,992 00

So that it appears there would be a balance in the hands of this trust, at the close of 1794, of $499,-393.84, were no monies to be furnished in the meantime to the sinking fund; but should the President determine to furnish that with the $900,000 proposed in my statement of June 5, then a loan would be necessary for about $400,000, say in near round numbers, 1,000,000 of guilders, in addition to the 2,000,000 now borrowing. I am, *individually*, of opinion that that sum ought to be furnished to the sinking fund, and consequently that an additional loan, to this extent, should be made, considering the subject in a *legal point of view* only.

The reasons in favor of the extension are,

The apprehension of the extension of our war to other Indian nations, and perhaps to Europe itself.

The disability this might produce to borrow at all, [this is, in my judgment, a weighty consideration].

The possibility that the government of France may become so settled as that we may hazard the anticipation of payment, and so avoid dead interest.

The reasons against it are,

The possibility that France may continue, for some time yet, so unsettled as to render an anticipation of payments hazardous.

The risk of losing the capital borrowed by a successful invasion of the country of deposit, if it be left in Europe; or by an extension of the bankruptcies now shaking the most solid houses; and when and where they will end we know not.

The loss of interest on the dead sum, if the sum itself be safe.

The execution of a power for one object, which was given to be executed but for a very different one.

The commitment of the President, on this account, to events, or to the criticisms of those who, though the measures should be perfectly wise, may misjudge it through error or passion.

The apprehension that the head of the department means to provide idle money to be lodged in the banks ready for the corruption of the next legislature, as it is believed the late ones were corrupted, by gratifying particular members with vast discounts for objects of speculation.

I confess that the last reasons have most weight with me.

Report on the privileges and restrictions on the commerce of the United States in foreign countries.

December 16, 1793.

Sir,—According to the pleasure of the House of Representatives, expressed in their resolution of February 23, 1791, I now lay before

them a report on the privileges and restrictions on the commerce of the United States in foreign countries. In order to keep the subject within those bounds which I supposed to be under the contemplation of the House, I have restrained my statements to those countries only with which we carry on a commerce of some importance, and to those articles also of our produce which are of sensible weight in the scale of our exports; and even these articles are sometimes grouped together, according to the degree of favor or restriction with which they are received in each country, and that degree expressed in general terms without detailing the exact duty levied on each article. To have gone fully into these minutiæ, would have been to copy the tariffs and books of rates of the different countries, and to have hidden, under a mass of details, those general and important truths, the extraction of which, in a simple form, I conceived would best answer the inquiries of the House, by condensing material information within those limits of time and attention, which this portion of their duties may justly claim. The plan, indeed, of minute details which have been impracticable with some countries, for want of information.

Since preparing this report, which was put into its present form in time to have been given in to the last session of Congress, alterations of the conditions of our commerce with some foreign nations have taken place—some of them independent of war; some arising out of it.

France has proposed to enter into a new treaty of commerce with us, on liberal principles; and has, in the meantime, relaxed some of the restraints mentioned in the report. Spain has, by an ordinance of June last, established New Orleans, Pensacola, and St. Augustine into free ports, for the vessels of friendly nations *having treaties of commerce* with her, provided they touch for a permit at Corcubion in Gallicia, or at Alicant; and our rice is, by the same ordinance, excluded from that country. The circumstances of war have necessarily given us freer access to the West Indian islands, whilst they have also drawn on our navigation vexations and depredations of the most serious nature.

To have endeavored to describe all these, would have been as impracticable as useless, since the scenes would have been shifting while under description. I therefore think it best to leave the report as it was formed, being adapted to a particular point of time, when things were in their settled order, that is to say, to the summer of 1792. I have the honor to be, &c.

To the Speaker of the House of Representatives of the United States of America.

The Secretary of State, to whom was referred, by the House of Representatives, the report of a committee on the written message of the President of the United States, of the 14th of February, 1791, with instruction to report to Congress the nature and extent of the privileges and restrictions of the commercial intercourse of the United States with foreign nations, and the measures which he should think proper to be adopted for the improvement of the commerce and navigation of the same, has had the same under consideration, and thereupon makes the following Report:

The countries with which the United States have their chief commercial intercourse are Spain, Portugal, France, Great Britain, the United Netherlands, Denmark, and Sweden, and their American possessions; and the articles of export, which constitute the basis of that commerce, with their respective amounts, are,

Bread-stuff, that is to say, bread grains, meals, and bread, to the annual amount of	$7,649,887
Tobacco	4,349,567
Rice	1,753,796
Wood	1,263,534
Salted fish	941,696
Pot and pearl ash	839,093
Salted meats	599,130
Indigo	537,379
Horses and mules	339,753
Whale oil	252,591
Flax seed	236,072
Tar, pitch and turpentine	217,177
Live provisions	137,743
Ships	
Foreign goods	620,274

To descend to articles of smaller value than these, would lead into a minuteness of detail neither necessary nor useful to the present object.

The proportions of our exports, which go to the nations before mentioned, and to their dominions, respectively, are as follows:

To Spain and its dominions	$2,005,907
Portugal and its dominions	1,283,462
France and its dominions	4,698,735
Great Britain and its dominions	9,363,416
The United Netherlands and their dominions	1,963,880
Denmark and its dominions	224,415
Sweden and its dominions	47,240

Our imports from the same countries, are,

Spain and its dominions	335,110
Portugal and its dominions	595,763
France and its dominions	2,068,348
Great Britain and its dominions	15,285,428
United Netherlands and their dominions	1,172,692
Denmark and its dominions	351,364
Sweden and its dominions	14,325

These imports consist mostly of articles on which industry has been exhausted.

Our *navigation*, depending on the same commerce, will appear by the following statement of the tonnage of our own vessels, entering in our ports, from those several nations and their possessions, in one year; that is to say; from October, 1789, to September, 1790, inclusive, as follows:

	Tons.
Spain	19,695
Portugal	23,576
France	116,410
Great Britain	43,580
United Netherlands	58,858
Denmark	14,655
Sweden	750

Of our commercial objects, Spain receives favorably our bread-stuff, salted fish, wood, ships, tar, pitch, and turpentine. On our meals, however, as well as on those of other foreign countries, when reexported to their colonies, they have lately imposed duties of from half-a-dollar to two dollars the barrel, the duties being so proportioned to the current price of their own flour, as that both together are to make the constant sum of nine dollars per barrel.

They do not discourage our rice, pot and pearl ash, salted provisions, or whale oil; but these articles, being in small demand at their markets, are carried thither but in a small degree. Their demand for rice, however, is increasing. Neither tobacco nor indigo are received there. Our commerce is permitted with their Canary islands under the same conditions.

Themselves, and their colonies, are the actual consumers of what they receive from us.

Our navigation is free with the kingdom of Spain; foreign goods being received there in our ships on the same conditions as if carried in their own, or in the vessels of the country of which such goods are the manufacture or produce.

Portugal receives favorably our grain and bread, salted fish, and other salted provisions, wood, tar, pitch, and turpentine.

For flax-seed, pot and pearl ash, though not discouraged, there is little demand.

Our ships pay 20 per cent. on being sold to their subjects, and are then free-bottoms.

Foreign goods (except those of the East Indies) are received on the same footing in our vessels as in their own, or any others; that is to say, on general duties of from 20 to 28 per cent., and, consequently, our navigation is unobstructed by them. Tobacco, rice, and meals, are prohibited.

Themselves and their colonies consume what they receive from us.

These regulations extend to the Azores, Madeira, and the Cape de Verd islands, except that in these, meals and rice are received freely.

France receives favorably our bread-stuffs, rice, wood, pot and pearl ashes.

A duty of 5 sous the quintal, or nearly 4½ cents, is paid on our tar, pitch, and turpentine. Our whole oils pay 6 livres the quintal, and are the only foreign whale oils admitted. Our indigo pays 5 livres the quintal, their own 2½; but a difference of quality, still more than a difference of duty, prevents its seeking that market.

Salted beef is received freely for re-exportation; but if for home consumption, it pays five livres the quintal. Other salted provisions pay that duty in

all cases, and salted fish is made lately to pay the prohibitory one of twenty livres the quintal.

Our ships are free to carry thither all foreign goods which may be carried in their own or any other vessels, except tobaccoes not of our own growth; and they participate with theirs the exclusive carriage of our whale oils and tobaccoes.

During their former government, our tobacco was under a monopoly, but paid no duties; and our ships were freely sold in their ports, and converted into national bottoms. The first national assembly took from our ships this privilege. They emancipated tobacco from its monopoly, but subjected it to duties of eighteen livres, fifteen sous the quintal, carried in their own vessels, and five livres carried in ours—a difference more than equal to the freight of the article.

They and their colonies consume what they receive from us.

Great Britain receives our pot and pearl ashes free, whilst those of other nations pay a duty of two shillings and three pence the quintal. There is an equal distinction in favor of our bar iron; of which article, however, we do not produce enough for our own use. Woods are free from us, whilst they pay some small duty from other countries. Indigo and flax seed are free from all countries. Our tar and pitch pay eleven pence, sterling, the barrel. From other alien countries they pay about a penny and a third more.

Our tobacco, for their own consumption, pays one shilling and three pence, sterling, the pound, custom and excise, besides heavy expenses of collection; and rice, in the same case, pays seven shillings and fourpence, sterling, the hundred weight; which, rendering it too dear, as an article of common food, it is consequently used in very small quantity.

Our salted fish and other salted provisions, except bacon, are prohibited. Bacon and whale oils are under prohibitory duties; so are our grains, meals, and bread, as to internal consumption, unless in times of such scarcity as may raise the price of wheat to fifty shillings, sterling, the quarter, and other grains and meals in proportion.

Our ships, though purchased and navigated by their own subjects, are not permitted to be used, even in their trade with us.

While the vessels of other nations are secured by standing laws, which cannot be altered but by the concurrent will of the three branches of the British legislature, in carrying thither any produce or manufacture of the country to which they belong, which may be lawfully carried in any vessels, ours, with the same prohibition of what is foreign, are further prohibited by a standing law, (12 Car. 2, 18, sect. 3,) from carrying thither all and any of our own domestic productions and manufactures. A subsequent act, indeed, has authorized their executive to permit the carriage of our own productions in our own bottoms, at its sole discretion; and the permission

has been given from year to year by proclamation but subject every moment to be withdrawn on that single will; in which event, our vessels having anything on board, stand interdicted from the entry of all British ports. The disadvantage of a tenure which may be so suddenly discontinued, was experienced by our merchants on a late occasion,[1] when an official notification that this law would be strictly enforced, gave them just apprehensions for the fate of their vessels and cargoes despatched or destined for the ports of Great Britain. The minister of that court, indeed, frankly expressed his personal conviction, that the words of the order went farther than was intended, and so he afterwards officially informed us; but the embarrassments of the moment were real and great, and the possibility of their renewal lays our commerce to that country under the same species of discouragement as to other countries, where it is regulated by a single legislator; and the distinction is too remarkable not to be noticed, that our navigation is excluded from the security of fixed laws, while that security is given to the navigation of others.

Our vessels pay in their ports one shilling and nine pence, sterling, per ton, light and trinity dues, more than is paid by British ships, except in the port of London, where they pay the same as British.

The greater part of what they receive from us, is re-exported to other countries under the useless

[1] April 12, 1792.

charges of an intermediate deposit, and double voyage. From tables published in England, and composed, as is said, from the books of their custom houses, it appears, that of the indigo imported there in the years 1773, '4, '5, one-third was re-exported; and from a document of authority, we learn, that of the rice and tobacco imported there before the war, four-fifths were re-exported. We are assured, indeed, that the quantities sent thither for re-exportation since the war, are considerably diminished, yet less so than reason and national interest would dictate. The whole of our grain is re-exported when wheat is below fifty shillings the quarter, and other grains in proportion.

The *United Netherlands* prohibit our pickled beef and pork, meals and bread of all sorts, and lay a prohibitory duty on spirits distilled from grain.

All other of our productions are received on varied duties, which may be reckoned, on a medium, at about three per cent.

They consume but a small proportion of what they receive. The residue is partly forwarded for consumption in the inland parts of Europe, and partly re-shipped to other maritime countries. On the latter portion they intercept between us and the consumer, so much of the value as is absorbed in the charges attending an intermediate deposit.

Foreign goods, except some East India articles, are received in vessels of any nation.

Our ships may be sold and neutralized there, with

exceptions of one or two privileges, which somewhat lessen their value.

Denmark lays considerable duties on our tobacco and rice, carried in their own vessels, and half as much more, if carried in ours; but the exact amount of these duties is not perfectly known here. They lay such as amount to prohibitions on our indigo and corn.

Sweden receives favorably our grains and meals, salted provisions, indigo, and whale oil.

They subject our rice to duties of sixteen mills the pound weight, carried in their own vessels, and of forty per cent. additional on that, or twenty-two and four-tenths mills, carried in ours or any others. Being thus rendered too dear as an article of common food, little of it is consumed with them. They consume some of our tobaccoes, which they take circuitously through Great Britain, levying heavy duties on them also; their duties of entry, town duties, and excise, being 4.34 dollars the hundred weight, if carried in their own vessels, and of forty per cent. on that additional, if carried in our own or any other vessels.

They prohibit altogether our bread, fish, pot and pearl ashes, flax-seed, tar, pitch, and turpentine, wood, (except oak timber and masts,) and all foreign manufactures.

Under so many restrictions and prohibitions, our navigation with them is reduced to almost nothing.

With our neighbors, an order of things much harder presents itself.

Spain and *Portugal* refuse, to all those parts of America which they govern, all direct intercourse with any people but themselves. The commodities in mutual demand between them and their neighbors, must be carried to be exchanged in some port of the dominant country, and the transportation between that and the subject state, must be in a domestic bottom.

France, by a standing law, permits her West India possessions to receive directly our vegetables, live provisions, horses, wood, tar, pitch, turpentine, rice, and maize, and prohibits our other bread-stuff; but a suspension of this prohibition having been left to the colonial legislatures, in times of scarcity, it was formerly suspended occasionally, but latterly without interruption.

Our fish and salted provisions (except pork) are received in their islands under a duty of three colonial livres the quintal, and our vessels are as free as their own to carry our commodities thither, and to bring away rum and molasses.

Great Britain admits in her islands our vegetables, live provisions, horses, wood, tar, pitch, and turpentine, rice and bread-stuff, by a proclamation of her executive, limited always to the term of a year, but hitherto renewed from year to year. She prohibits our salted fish and other salted provisions. She does not permit our vessels to carry thither our own produce. Her vessels alone may take it from us, and bring in exchange rum, molasses, sugar, coffee, cocoa-

nuts, ginger, and pimento. There are, indeed, some freedoms in the island of Dominica, but, under such circumstances, as to be little used by us. In the British continental colonies, and in Newfoundland, all our productions are prohibited, and our vessels forbidden to enter their ports. Their governors, however, in times of distress, have power to permit a temporary importation of certain articles in their own bottoms, but not in ours.

Our citizens cannot reside as merchants or factors within any of the British plantations, this being expressly prohibited by the same statute of 12 Car. 2, c. 18, commonly called the navigation act.

In the *Danish American* possessions a duty of 5 per cent. is levied on our corn, corn meal, rice, tobacco, wood, salted fish, indigo, horses, mules and live stock, and of 10 per cent. on our flour, salted pork and beef, tar, pitch and turpentine.

In the American islands of the *United Netherlands* and Sweden, our vessels and produce are received, subject to duties, not so heavy as to have been complained of; but they are heavier in the Dutch possessions on the continent.

To sum up these restrictions, so far as they are important:

First. In Europe—

Our bread stuff is at most times under prohibitory duties in England, and considerably dutied on reexportation from Spain to her colonies.

Our tobaccoes are heavily dutied in England,

Sweden and France, and prohibited in Spain and Portugal.

Our rice is heavily dutied in England and Sweden, and prohibited in Portugal.

Our fish and salted provisions are prohibited in England, and under prohibitory duties in France.

Our whale oils are prohibited in England and Portugal.

And our vessels are denied naturalization in England, and of late in France.

SECOND. In the West Indies—

All intercourse is prohibited with the possessions of Spain and Portugal.

Our salted provisions and fish are prohibited by England.

Our salted pork and bread stuff (except maize) are received under temporary laws only, in the dominions of France, and our salted fish pays there a weighty duty.

THIRD. In the article of navigation—

Our own carriage of our own tobacco is heavily dutied in Sweden, and lately in France.

We can carry no article, not of our own production, to the British ports in Europe. Nor even our own produce to her American possessions.

Such being the restrictions on the commerce and navigation of the United States; the question is, in what way they may best be removed, modified or counteracted?

As to commerce, two methods occur. 1. By

friendly arrangements with the several nations with whom these restrictions exist: Or, 2. By the separate act of our own legislatures for countervailing their effects.

There can be no doubt but that of these two, friendly arrangement is the most eligible. Instead of embarrassing commerce under piles of regulating laws, duties and prohibitions, could it be relieved from all its shackles in all parts of the world, could every country be employed in producing that which nature has best fitted it to produce, and each be free to exchange with others mutual surplusses for mutual wants, the greatest mass possible would then be produced of those things which contribute to human life and human happiness; the numbers of mankind would be increased, and their condition bettered.

Would even a single nation begin with the United States this system of free commerce, it would be advisable to begin it with that nation; since it is one by one only that it can be extended to all. Where the circumstances of either party render it expedient to levy a revenue, by way of impost, on commerce, its freedom might be modified, in that particular, by mutual and equivalent measures, preserving it entire in all others.

Some nations, not yet ripe for free commerce in all its extent, might still be willing to mollify its restrictions and regulations for us, in proportion to the advantages which an intercourse with us might offer. Particularly they may concur with us in

reciprocating the duties to be levied on each side, or in compensating any excess of duty by equivalent advantages of another nature. Our commerce is certainly of a character to entitle it to favor in most countries. The commodities we offer are either necessaries of life, or materials for manufacture, or convenient subjects of revenue; and we take in exchange, either manufactures, when they have received the last finish of art and industry, or mere luxuries. Such customers may reasonably expect welcome and friendly treatment at every market. Customers, too, whose demands, increasing with their wealth and population, must very shortly give full employment to the whole industry of any nation whatever, in any line of supply they may get into the habit of calling for from it.

But should any nation, contrary to our wishes, suppose it may better find its advantage by continuing its system of prohibitions, duties and regulations, it behooves us to protect our citizens, their commerce and navigation, by counter prohibitions, duties and regulations, also. Free commerce and navigation are not to be given in exchange for restrictions and vexations; nor are they likely to produce a relaxation of them.

Our navigation involves still higher considerations. As a branch of industry, it is valuable, but as a resource of defence, essential.

Its value, as a branch of industry, is enhanced by the dependence of so many other branches on it.

In times of general peace it multiplies competitors for employment in transportation, and so keeps that at its proper level; and in times of war, that is to say, when those nations who may be our principal carriers, shall be at war with each other, if we have not within ourselves the means of transportation, our produce must be exported in belligerent vessels, at the increased expense of war-freight and insurance, and the articles which will not bear that, must perish on our hands.

But it is as a resource of defence that our navigation will admit neither neglect nor forbearance. The position and circumstances of the United States leave them nothing to fear on their land-board, and nothing to desire beyond their present rights. But on their seaboard, they are open to injury, and they have there, too, a commerce which must be protected. This can only be done by possessing a respectable body of citizen-seamen, and of artists and establishments in readiness for ship-building.

Were the ocean, which is the common property of all, open to the industry of all, so that every person and vessel should be free to take employment wherever it could be found, the United States would certainly not set the example of appropriating to themselves, exclusively, any portion of the common stock of occupation. They would rely on the enterprise and activity of their citizens for a due participation of the benefits of the seafaring business, and for keeping the marine class of citizens equal to their

object. But if particular nations grasp at undue shares, and, more especially, if they seize on the means of the United States, to convert them into aliment for their own strength, and withdraw them entirely from the support of those to whom they belong, defensive and protecting measures become necessary on the part of the nation whose marine resources are thus invaded; or it will be disarmed of its defence; its productions will lie at the mercy of the nation which has possessed itself exclusively of the means of carrying them, and its politics may be influenced by those who command its commerce. The carriage of our own commodities, if once established in another channel, cannot be resumed in the moment we may desire. If we lose the seamen and artists whom it now occupies, we lose the present means of marine defence, and time will be requisite to raise up others, when disgrace or losses shall bring home to our feelings the error of having abandoned them. The materials for maintaining our due share of navigation, are ours in abundance. And, as to the mode of using them, we have only to adopt the principles of those who put us on the defensive, or others equivalent and better fitted to our circumstances.

The following principles, being founded in reciprocity, appear perfectly just, and to offer no cause of complaint to any nation:

1. Where a nation imposes high duties on our productions, or prohibits them altogether, it may

be proper for us to do the same by theirs; first burdening or excluding those productions which they bring here, in competition with our own of the same kind; selecting next, such manufactures as we take from them in greatest quantity, and which, at the same time, we could the soonest furnish to ourselves, or obtain from other countries; imposing on them duties lighter at first, but heavier and heavier afterwards as other channels of supply open. Such duties having the effect of indirect encouragement to domestic manufactures of the same kind, may induce the manufacturer to come himself into these States, where cheaper subsistence, equal laws, and a vent of his wares, free of duty, may ensure him the highest profits from his skill and industry. And here, it would be in the power of the State governments to co-operate essentially, by opening the resources of encouragement which are under their control, extending them liberally to artists in those particular branches of manufacture for which their soil, climate, population and other circumstances have matured them, and fostering the precious efforts and progress of *household* manufacture, by some patronage suited to the nature of its objects, guided by the local informations they possess, and guarded against abuse by their presence and attentions. The oppressions on our agriculture, in foreign ports, would thus be made the occasion of relieving it from a dependence on the councils and conduct of others, and of promoting arts, manufactures and population at home.

2. Where a nation refuses permission to our merchants and factors to reside within certain parts of their dominions, we may, if it should be thought expedient, refuse residence to theirs in any and every part of ours, or modify their transactions.

3. Where a nation refuses to receive in our vessels any productions but our own, we may refuse to receive, in theirs, any but their own productions. The first and second clauses of the bill reported by the committee, are well formed to effect this object.

4. Where a nation refuses to consider any vessel as ours which has not been built within our territories, we should refuse to consider as theirs, any vessel not built within their territories.

5. Where a nation refuses to our vessels the carriage even of our own productions, to certain countries under their domination, we might refuse to theirs of every description, the carriage of the same productions to the same countries. But as justice and good neighborhood would dictate that those who have no part in imposing the restriction on us, should not be the victims of measures adopted to defeat its effect, it may be proper to confine the restriction to vessels owned or navigated by any subjects of the same dominant power, other than the inhabitants of the country to which the said productions are to be carried. And to prevent all inconvenience to the said inhabitants, and to our own, by too sudden a check on the means of transportation, we may continue to admit the vessels marked for

future exclusion, on an advanced tonnage, and for such length of time only, as may be supposed necessary to provide against that inconvenience.

The establishment of some of these principles by Great Britain, alone, has already lost us in our commerce with that country and its possessions, between eight and nine hundred vessels of near 40,000 tons burden, according to statements from official materials, in which they have confidence. This involves a proportional loss of seamen, shipwrights, and shipbuilding, and is too serious a loss to admit forbearance of some effectual remedy.

It is true we must expect some inconvenience in practice from the establishment of discriminating duties. But in this, as in so many other cases, we are left to choose between two evils. These inconveniences are nothing when weighed against the loss of wealth and loss of force, which will follow our perseverance in the plan of indiscrimination. When once it shall be perceived that we are either in the system or in the habit of giving equal advantages to those who extinguish our commerce and navigation by duties and prohibitions, as to those who treat both with liberality and justice, liberality and justice will be converted by all into duties and prohibitions. It is not to the moderation and justice of others we are to trust for fair and equal access to market with our productions, or for our due share in the transportation of them; but to our own means of independence, and the firm will to use them. Nor do

the inconveniences of discrimination merit consideration. Not one of the nations before mentioned, perhaps not a commercial nation on earth, is without them. In our case one distinction alone will suffice: that is to say, between nations who favor our productions and navigation, and those who do not favor them. One set of moderate duties, say the present duties, for the first, and a fixed advance on these as to some articles, and prohibitions as to others, for the last.

Still, it must be repeated that friendly arrangements are preferable with all who will come into them; and that we should carry into such arrangements all the liberality and spirit of accommodation which the nature of the case will admit.

France has, of her own accord, proposed negotiations for improving, by a new treaty on fair and equal principles, the commercial relations of the two countries. But her internal disturbances have hitherto prevented the prosecution of them to effect, though we have had repeated assurances of a continuance of the disposition.

Proposals of friendly arrangement have been made on our part, by the present government, to that of Great Britain, as the message states; but, being already on as good a footing in law, and a better in fact, than the most favored nation, they have not, as yet, discovered any disposition to have it meddled with.

We have no reason to conclude that friendly

arrangements would be declined by the other nations, with whom we have such commercial intercourse as may render them important. In the meanwhile, it would rest with the wisdom of Congress to determine whether, as to those nations, they will not surcease *ex parte* regulations, on the reasonable presumption that they will concur in doing whatever justice and moderation dictate should be done.

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Report on the Mint. Communicated to the Senate, December 31, 1793.

PHILADELPHIA, December 30, 1793.

SIR,—I am informed, by the Director of the Mint, that an impediment has arisen to the coinage of the precious metals, which it is my duty to lay before you.

It will be recollected, that, in pursuance of the authority vested in the President, by Congress, to procure artists from abroad, if necessary, Mr. Drotz, at Paris, so well known by the superior style of his coinage, was engaged for our mint; but that, after occasioning to us a considerable delay, he declined coming. That thereupon, our minister at London, according to the instructions he had received, endeavored to procure, there, a chief coiner and assayer; that, as to the latter, he succeeded in sending over a Mr. Albion Coxe, for that office, but that he could procure no person there more qualified to discharge the duties of chief coiner, than might be had here; and, therefore, did not engage one.

The duties of this last office have consequently been, hitherto, performed, and well performed, by Henry Voight, an artist of the United States, but the law requiring these officers to give a security, in the sum of ten thousand dollars each, neither is able to do it. The coinage of the precious metals has, therefore, been prevented for some time past, though, in order that the mint might not be entirely idle, the coinage of copper has been going on; the trust in that, at any one point of time, being of but small amount.

It now remains to determine how this difficulty is to be got over. If by discharging these officers, and seeking others, it may well be doubted if any can be found in the United States, equally capable of fulfilling their duties; and to seek them from abroad, would still add to the delay; and if found either at home or abroad, they must still be of the description of artists whose circumstances and connections rarely enable them to give security in so large a sum. The other alternative would be to lessen the securityship in money, and to confide that it will be supplied by the vigilance of the director, who, leaving as small masses of metal in the hands of the officers, at any one time, as the course of their process will admit, may reduce the risk to what would not be considerable.

To give an idea of the extent of the trust to the several officers, both as to sum and time, it may be proper to state the course of the business, according to what the director is of opinion it should be. The treasurer, he observes, should receive the bullion;

the assayer, by an operation on a few grains of it, is to ascertain its fineness. The treasurer is then to deliver it to the refiner, to be melted and mixed to the standard fineness; the assayer here, again, examining a few grains of the melted mass, and certifying when it is of due fineness; the refiner then delivers it to the chief coiner, to be rolled and coined, and returns it, when coined, to the treasurer. By this it appears, that a few grains only, at a time, are in the hands of the assayer, the mass being confided, for operation, to the refiner and chief coiner. It is to be observed that the law has not taken notice of the office of refiner, though so important an officer ought, it should seem, to be of the President's nomination, and ought to give a security nearly equal to that required from the chief coiner.

I have thought it my duty to give this information under an impression that it is proper to be communicated to the Legislature, who will decide, in their wisdom, whether it will be expedient to make it the duty of the treasurer to receive and keep the bullion before coinage;

To lessen the pecuniary security required from the chief coiner and assayer; and to place the office of the refiner under the same nomination with that of the other chief officers; to fix his salary, and require due security.

I have the honor to be, with the most perfect respect and attachment, sir, your most obedient and most humble servant.

The following Reports were not included in the Congressional Edition of 1853:

REPORT ON THE TONNAGE PAYABLE BY FRENCH VESSELS IN THE PORTS OF THE UNITED STATES.[1]

January 18, 1791.

The Secretary of State having received from the Chargé des Affaires of France a note on the Tonnage payable by french vessels in the ports of the United States has had the same under his consideration, and thereupon makes the following Report to the President of the United States:

The Chargé des Affaires of France, by a note of the 13th. of December represents, by order of his Court, that they consider so much of the acts of Congress of July 20th. 1789 and 1790 as imposes an

[1] Jefferson, in submitting this Report to Alexander Hamilton, sent him the following letter:

January 1st, 1791.—Dear Sir,—I inclose you copies of the printed papers you desired; also a letter I received last night. This paper I will thank you to return by the bearer when you shall have perused it, as it is yet to be translated and communicated to the President. It is evident that this matter will become serious, and tho' I am pointedly against admitting the French construction of the treaty; yet I think it essential to work up some favour which may ensure the continuance of the good dispositions they have towards us. A nation which takes one third of our tobacco, more than half our fish oil and two thirds of our fish, say one half of the amount of these great staples and a great deal of rice, and from whom we take nothing in return but hard money to carry directly over and pour into the coffers of their enemies, such a customer, I say, deserves some menagemens. I would thank you sincerely to suggest any thing better than I had thought of. I am dear Sir your's affectionately and respectfully."

extraordinary Tonnage on foreign vessels, without excepting those of France, to be in contravention of the 5th. Article of the Treaty of Amity and Commerce between the two nations; that this would have authorised on their part a proportional modification in the favours granted to the American navigation: but that his sovereign had thought it more conformable to his principles of friendship and attachment to the United States to order him to make representations thereon, and to ask, in favour of french Vessels, a modification of the acts which impose an extraordinary Tonnage on foreign vessels.

The Secretary of State in giving in this paper to the President of the United States, thinks it his duty to accompany it with the following observations;

The 3d. and 4th. Articles of the Treaty of Amity and Commerce between France and the United States, subject the vessels of each nation to pay, in the ports of the other, only such duties as are paid by the most favoured nation: and give them reciprocally all the privileges and exemptions, in navigation and commerce, which are given by either to the most favoured nations. Had the contracting parties stopped here, they would have been free to raise or lower their Tonnage as they should find it expedient; only taking care to keep the other on the footing of the most favoured nation.

The question then is whether the 5th. Article,

cited in the note, is anything more than an application of the principle comprised in the 3d. and 4th. to a particular object? or whether it is an additional stipulation of something not so comprised?

I. That it is merely an application of a principle comprised in the preceding articles, is declared by the express words of the article, to wit, "*Dans l'exemption cidessus est nommément compris*" *etc.*, "*in the above exemption is particularly comprised* the imposition of 100. sols per Ton established in France on foreign vessels." Here then is at once an express declaration that the exemption from the duty of 100. sols, is *comprised* in the 3d. and 4th. articles; that is to say, it was one of the exemptions, enjoyed by the most favoured nations, and, as such, extended to us by those articles. If the exemption spoken of in this 1st. member of the 5th. article was *comprised* in the 3d. and 4th. articles, as is expressly declared, then the reservation by France out of that exemption (which makes the 2d. member of the same article) *was also comprised;* that is to say, if *the whole* was comprised, *the part* was comprised. And if this reservation of France in the 2d. member was comprised in the 3d. and 4th. Articles, then the counter reservation by the United States (which constitutes the 3d. and last member of the same article) was also comprised. Because it is but a corresponding portion of a similar whole on our part, which had been comprised by the same terms with theirs.

In short the whole Article relates to a particular duty of 100 sols laid by some antecedent law of France on the vessels of foreign nations, relinquished as to the most favoured, and consequently to us. It is not a new and additional stipulation then, but a declared application of the stipulations comprised in the preceding Articles to a particular case, by way of greater caution.

The doctrine laid down generally in the 3d. and 4th. Articles, and exemplified specially in the 5th. amounts to this: "The vessels of the most favoured nations, coming from foreign ports, are exempted from the duty of 100. sols: therefore you are exempted from it by the 3d. and 4th. Articles. The vessels of the most favoured nations, coming coastwise, pay that duty: therefore you are to pay it by the 3d. and 4th. Articles: we shall not think it unfriendly in you to lay a like duty on coasters, because it will be no more than we have done ourselves. You are free also to lay that or any other duty on vessels coming from foreign ports: provided they apply to all other nations, even the most favoured. We are free to do the same, under the same restriction. Our exempting you from a duty which the most favoured nations do not pay, does not exempt you from one which they do pay."

In this view it is evident that the 5th. Article neither enlarges, nor abridges the stipulations of the 3d. and 4th. The effect of the Treaty would have been precisely the same had it been omitted alto-

gether; consequently it may be truly said that the reservation by the United States in this Article is completely useless. And it may be added with equal truth that the equivalent reservation by France is completely useless: as well as her previous abandonment of the same duty: and in short the whole article. Each party then remains free to raise or lower its Tonnage, provided the change operates on all nations, even the most favoured.

Without undertaking to affirm, we may obviously conjecture, that this Article has been inserted on the part of the United States from an over-caution to guard, *nommément, by name*, against a particular aggrievance; which they thought they could never be too well secured against: and that has happened, which generally happens; doubts have been produced by the too great number of words used to prevent doubt.

II. The Court of France however understands this article as intended to introduce something to which the preceding articles had not reached; and not merely as an application of them to a particular case. Their opinion seems to be founded on the general rule, in the construction of instruments, to leave no words merely useless, for which any rational meaning can be found. They say that the reservation by the United States of a right to lay a duty equivalent to that of the 100 sols, reserved by France, would have been completely useless, if they were not left free, by the preceding articles, to lay a Tonnage

to any extent whatever. Consequently that the reservation of a part proves a relinquishment of the residue.

If some meaning, and such a one, is to be given to the last member of the Article, some meaning, and a similar one, must be given to the corresponding member. If the reservation by the United States of a right to lay an equivalent duty, implies a relinquishment of their right to lay any other, the reservation by France of a right to continue the specified duty to which it is an equivalent, must imply a relinquishment of the right on her part to lay or continue any other. Equivalent reservations by both, must imply equivalent restrictions on both. The exact reciprocity stipulated in the preceding articles, and which pervades every part of the Treaty, insures a counter-right to each party for every right ceded to the other.

Let it be further considered that the duty called *tonnage* in the United States is in lieu of the duties for anchorage, for the support of Buoys, Beacons, and Light-houses, to guide the mariner into harbour, and along the coast, which are provided and supported at the expense of the United States, and for fees to measurers, weighers, gaugers, etc. who are paid by the United States; for which articles, among many others (light excepted) duties are paid by us in the ports of France under their specific names. That Government has hitherto thought these duties consistent with the Treaty; and consequently the

same duties under a general, instead of specific names, with us, must be equally consistent with it; it is not the name, but the thing which is essential. If we have renounced the right to lay any port duties, they must be understood to have equally renounced that of either laying new or continuing the old. If we ought to refund the port duties received from their vessels since the date of the act of Congress, they should refund the port duties they have received from our vessels since the date of the Treaty; for nothing short of this is the reciprocity of the Treaty.

If this construction be adopted then, each party has forever renounced the right of laying any duties on the vessels of the other coming from any foreign port, or more than 100 sols on those coming coastwise. Could this relinquishment be confined to the two contracting parties alone, the United States would be the gainers, for it is well known that a much[1] greater number of American than of French vessels are employed in the commerce between the two countries: but the exemption once conceded by the one nation to the other, becomes immediately the property of all others, who are on the footing of the most favoured nations. It is true that those others would be obliged to yield the same compensation, that is to say, to receive our vessels duty free.

[1] By an official paper from the Bureau of the balance of commerce of France, we find that of the ships which entered the ports of France from the U. S. in the year 1789, only 13. amounting to 2105. tons were French, & 163. making 24,173 tons were American.—*T. J.*

Whether we should gain or lose in the exchange of the measure with them, is not easy to say.

Another consequence of this construction will be that the vessels of the most favoured nations, paying no duties, will be on a better footing than those of nations which pay a moderate duty, consequently either the duty on these also must be given up, or they will be supplanted by foreign vessels in our own ports.

The resource then of duty on vessels for the purposes either of revenue or regulation, will be forever lost to both. It is hardly conceivable that either party, looking forward to all these consequences, would see their interest in them.

III. But if France persists in claiming this exemption, what is to be done? The claim indeed is couched in mild and friendly terms; but the idea leaks out that a refusal would authorize them to modify proportionally the favours granted, by the same article, to our navigation. Perhaps they may do what we should feel much more severely; they may turn their eyes to the favours granted us by their arrets of December 29th. 1787 and December 7th. 1788. which hang on their will alone, unconnected with the Treaty. Those arrets, among other advantages, admit our whale oils to the exclusion of that of all other foreigners. And this monopoly procures a vent for seven twelfths of the produce of that Fishery, which experience has taught us could find no other market. Near two thirds of the produce

of our cod fisheries too have lately found a free vent in the colonies of France.[1] This indeed has been an irregularity growing out of the anarchy reigning in those Colonies. Yet the demands of the Colonists, even of the Government party among them, (if an auxiliary disposition can be excited by some marks of friendship and distinction on our part) may perhaps produce a Constitutional concession to them to procure their provisions at the cheapest market; that is to say, at ours.

Considering the value of the interests we have at stake, and considering the smallness of difference between foreign and native Tonnage, on French vessels alone, it might perhaps be thought advisable to make the sacrifice asked; and especially if it can be so done as to give no title to other the most favoured nations to claim it. If the act should put French vessels on the footing of those of natives, and declare it to be in consideration of the favours

[1] Abstract of the produce of the Fisheries exported from the United States from August 20th. 1789 to August 14th. 1790. in which is omitted one quarter's exportations from Boston, Plymouth, Dighton, Penobscot, Frenchman's Bay, Machias, and New York, of which the returns are not received.—*T. J.*

	Cod Fishery.	Whale Fishery.	Both Fisheries.
France & the french West Indies.....	586.167 dollrs	131.906 dollrs	718.073 dollrs
The rest of the World	307.097	101.306	408.403
Whole produce	893.264	233.212	1.126.476

granted us by the arrets of Decr. 29th. 1787, and December 7th. 1788, (and perhaps this would satisfy them). No nation could then demand the same favour, without offering an equivalent compensation. It might strengthen, too, the tenure by which those arrets are held, which must be precarious, so long as they are gratuitous.

It is desirable, in many instances, to exchange mutual advantages by Legislative Acts rather than by Treaty: because the former, though understood to be in consideration of each other, and therefore greatly respected, yet when they become too inconvenient, can be dropped at the will of either party: whereas stipulations by Treaty are forever irrevocable but by joint consent, let a change of circumstances render them ever so burthensome.

1. On the whole, if it be the opinion, that the 1st. construction is to be insisted on, as ours, in opposition to the 2d. urged by the Court of France, and that no relaxation is to be admitted, an answer shall be given to that Court defending that construction, and explaining in as friendly terms as possible, the difficulties opposed to the exemption they claim.

2. If it be the opinion that it is advantageous for us to close with France in her interpretation of a reciprocal and perpetual exemption from Tonnage; a repeal of so much of the Tonnage law will be the answer.

3. If it be thought better to waive rigorous and nice discussions of right, and to make the modifica-

tion an act of friendship and of compensation for favours received, the passage of such a bill will then be the answer.

REPORT ON VERMONT NOMINATIONS.

February 19th, 1791.

The Secretary of state having received from the commissioners for the state of Vermont a letter proposing these Questions 1. Whether as that state will not be a distinct member of the union till the 4th. day of March next, the President can, before that day, nominate officers for it? and 2. if he can not, whether he can nominate them, after the recess of the Senate? makes thereon to the President of the U. S. the following Report:

He is of opinion the President cannot, before the 4th. of March, make nominations which will be good in law: because, till that day, it will not be a separate and integral member of the U. S. and it is only to integral members of the union that his right of nomination is given by the Constitution.

But that nomination may be made on the 4th. of March, and, if the Senate will meet on that day, may be reported to them for their approbation. It is true that the two or three new members will be absent, unless they chuse to come in for this purpose; but as the occasion of consulting an imperfect Senate will not be produced by any act of the President, and as it is in the power of the new Senators to

render the body perfect, by coming on if they choose it, this difficulty appears smaller, than that of making original nominations without the concurrence of the Senate. This therefore is what the Secretary of State thinks best to be done.

REPORT ON UNCLAIMED LANDS.

November 8, 1791.

The Secretary of State to whom was referred by the President of the U. S. the resolution of Congress requesting the President "to cause an estimate to be laid before Congress at their next session of the quantity and situation of the lands not claimed by the Indians, nor granted to, nor claimed by, any citizens of the U. S. within the territory ceded to the U. S. by the state of North Carolina and within the territory of the U. S. north west of the river Ohio," makes thereon the following Report.

South western Territory. The territory ceded by the State of North Carolina to the U. S. by deed bearing date the 25th. day of February 1790 is bounded as follows to wit; beginning in the boundary between Virginia and North Carolina, that is to say, in the parallel of latitude 36½ degrees North from the equator on the extreme height of the stone mountain, where the said boundary or parallel intersects it, and running thence along the said extreme height to the river Missisipi; thence up the middle

of the said river to where it is intersected by the first mentioned parallel of 36½ degrees; then along the said parallel to the beginning : which tract of Country is a degree and a half of latitude from North to South, and about 360 miles in general from East to West, as nearly as may be estimated from such maps as exist of that Country.

Indian Claims. The Indians having claims within the said tract of country are the Cherokees and Chickasaws, whose boundaries are settled by the treaties of Hopewell, concluded with the Cherokees on the 28th day of November 1785, and with the Chickasayos on the 10th day of January 1786, and by the treaty of Holston concluded with the Cherokees July 2. 1791. These treaties acknowledge to the said Indians all the lands Westward and Southward of the following lines, to wit, Beginning in the boundary between South and North Carolina where the South Carolina Indian boundary strikes the same; thence North to a point from which a line is to be extended to the river Clinch that shall pass the Holston at the ridge which divides the waters; and containing, as may be conjectured without pretending to accuracy, between seven and eight thousand square miles or about 5. millions of acres; And to one other parcel to the Westward, somewhat triangular also, comprehending parts of the counties of Sumner, Davidson and Tannissee, the base whereof extends about 150 miles also, from East to West on the same Virginia Line, and its height from North to

South, about 55 miles, and so may comprehend about five thousand square miles, or upwards of two and an half millions of acres of land.

Claims of Citizens. Within these however are the following claims of citizens reserved by the deed of cession and consequently which furnish exceptions to the rights of the U. S.

I. Appropriations by the state of North Carolina for their Continental and State Officers and Souldiers.

II. Grants, and Titles to grants vested in individuals by the laws of the State.

III. Entries made in Armstrong's office under an act of that State of 1783 for the redemption of specie and other certificates.

REPORT ON THE PETITION OF JOHN MANGNALL.

November 10, 1791.

The Secretary of State, to whom was referred by the Senate of the United States, the petition of John Mangnall, has had the same under consideration, and thereupon makes the following Report.

He finds that Congress, on the application of the Petitioner, resolved on the 27th day of September 1780, that the profit of the capture of the Doser cutter should be divided among the captors, and that the honorable Mr. Jay, their Minister Plenipotentiary at the court of Madrid should be instructed to endeavor to obtain for the said captors the benefit by their resolve of October 14, 1777.

That such instructions were accordingly sent by the Committee for foreign Affairs to Mr. Jay, who continued, during his residence there, to press the settlement of this claim, under very varying prospects as to the result.

That after he came to the direction of the office for foreign Affairs, he continued to press the same subject through our Chargé des Affaires at Madrid; and it has been since resumed and urged in the strongest terms by the Secretary of State.

That as yet no information is received of what has been done, or is likely to be done.

That the circumstances of the country where this business has been to be transacted, have rendered the transmission and receipt of letters at all times difficult and precarious, and latterly in a remarkable degree. But still that there will be no remission of endeavors to obtain justice for the Petitioner and his Associates.

[1]As to so much of the petition as prays that a pension may be allowed him until the adjustment of his claim, it will rest with the wisdom of the Senate to decide on its reasonableness. The precedent will indeed be new, and may bring on other applications in similar cases to which their regular conduct of officers military and civil, have given rise, and will perpetually give rise. But if they shall perceive that the measure is right, the consequence that it will lead to repetitions in other cases equally right ought to be met.

[1] This paragraph is crossed out in Jefferson's manuscript.

As to so much of the said petition as prays that the petitioner may be allowed a pension from the Public until his claim shall be decided at the Court of Madrid, the Secretary of State observes, that in times of war questions are continually arising on the legitimacy of capture, on acts of piracy, on acts of violence at sea, and in times of peace on seizures for contraband, regular and irregular, which draw on discussions with foreign nations, always of long continuance, and often of results in which expedience rather than justice renders acquiescence adviseable; that some such cases are now depending between the Governments of the United States and of other countries; that a great number of Applications might be made for pensions on the same ground with the present, both now and hereafter; that it is not known that the claims are just till they are heard and decided on, and even when decided to be just, the Government from which it is due is alone responsible for the money: and he is therefore of opinion that such a pension ought not to be granted.

REPORT ON THE PETITION OF WILLIAM HOWE.

November 14, 1791.

The Secretary of State, to whom was referred by the House of Representatives the Petition of William Howe, praying satisfaction from the United States, for a Debt due to him in Nova Scotia, and whereon

Judgment has been rendered against him, contrary to existing Treaties, as he supposes, with Instructions to examine the same, and report his Opinions thereupon to the House, has had the same under consideration, and thereupon Reports:

That if the facts be justly stated in the Petition; Indemnification is to be sought from a foreign Nation, and, therefore, that the Case is a proper one to be addressed to the President of the United States.

That, when in that Channel, if it shall be found after advising with Counsel at Law, that the Verdict or Judgment rendered in the said Case, is inconsistent with Treaty, it will become a proper Subject of Representation to the Court of London, and of Indemnification from them to the Party.

That to this Interposition the Petitioner will, in that case, be entitled, but not to any Reimbursement from the United States directly.

REPORT ON THE PETITION OF JOHN NEUFVILLE.

November 26, 1792.

The Secretary of State, to whom was referred by the House of Representatives, the petition of John De Neufville, with instructions to examine the same, and report thereupon his opinion to the House, at the present Session, has had the same under examination, together with the Letter accompanying it from William Lee, Esquire, to the Petitioner, bearing date

Dec. 14th, 1791, and hath also examined the records of the Department of State, which might throw light on the allegations of the said petition: And he finds—

That William Lee, Esquire, was appointed by Congress in May 1777, a Commissioner for the United States to the Courts of Vienna and Berlin, with power to communicate and treat with those Courts on the subjects of friendship, peace, the safety of navigation and mutual commerce, and to do all such things as might conduce to those ends.

That the Petitioner, then a citizen of the United Netherlands, met with Mr. Lee in Germany, where, conversing on the subject of their two Countries, a Treaty between them was spoken of as desirable, and perhaps practicable: that the Petitioner, having afterwards consulted with persons of influence in his own Country, was engaged by them, on behalf of their country, to concert with Mr. Lee, or any other person, in the employment of the United States, a plan of a Treaty: that this was done at a subsequent meeting, and the Plan signed by Mr. Lee, on our part, and by the Petitioner, on the other Part: but that this plan was not prosecuted to effect, Congress putting the business into other hands. Which several facts appear by the Records in the Department of State, some of the most material of which have been extracted, and are hereto annexed.

The Petitioner further sets forth—

That the persecution excited against him by the enemies of the United States, on account of his

Agency on the part of Holland, in preparing the plan of a Treaty, obliged him to convey all his estate to his son, to leave his Country, and to part with his property in the British funds, by which last operation, he lost between four and five thousand pounds sterling:

That he advanced for the State of South Carolina, fifteen thousand pounds sterling in Military and other Stores; for which advance, being pressed by his creditors, he was obliged to sell his House in Amsterdam for £10,000 Sterling, which was worth £14,000, and to pass over to America.

That he lent to Mr. Laurens, during his captivity, £1,000 sterling, which sum, however, Mr. Laurens repaid him immediately on his liberation.

That he shipped goods to St. Eustatia, with a view to supply the Americans, of which £15,000 sterling's worth was captured by British ships:

And that, during a space of three Years, his House was a hospital asylum for Americans in general, by which he incurred an Expense of £10,000 sterling.

The establishment of these latter facts has not been required by the Secretary of State, because, if established, they would not, in his opinion, have founded a right to indemnification from the United States.

The part the Petitioner bore in projecting a Treaty between Holland and the United States, was, as a citizen of Holland, on the behalf of that Country, while the Counterpart was carried on for us by Mr. Lee, then employed on another mission. It follows

that each party should defray the expense of its own Agent, and that the losses in the British funds, stated as a consequence of this particular transaction, were to be indemnified by his own nation, if by either party.

The advance of £15,000 sterling in Stores to the State of South Carolina, was a matter of account with that State, as must also be the losses consequent on that, in the sale of his house, if they be a subject of indemnification at all.

The loan of a thousand pounds to Mr. Laurens, one of the Ministers of the United States, is acknowledged to have been speedily repaid.

The shipments of goods to St. Eustatia, with a view of disposing of them to the Americans, were in the line of his commerce, and the losses sustained on them by capture, belong fairly to the account of profit and loss, which every merchant hazards, and endeavors to counterpoise, without supposing himself insured either by his own, or any foreign Government.

The hospitalities of the Petitioner in Amsterdam, stated at £10,000 sterling, of which such Americans participated as happened to be there, found a claim to their particular gratitude and attention, and to the esteem attached to the exercise of private virtues: but, whilst we sincerely regret calamities, which no degree of personal worth can avert, we are forced to declare they are no legitimate object of taxation on our Citizens in general.

These several Articles, constituting the foundation of the petition, the Secretary of State reports it is his Opinion, that no part of it ought to be granted.

REPORT ON EXPEDIENCY OF APPOINTING A CONSUL AT COPENHAGEN.

January 10, 1792.

The Secretary of State having received information that the Merchants and Merchandize of the United States are subject in Copenhagen and other ports of Denmark to considerable extra duties, from which they might probably be relieved by the presence of a Consul there, reports to the President of the United States:

That it would be expedient to name a Consul, to be resident in the port of Copenhagen: That he has not been able to find that there is any citizen of the United States residing there: That there is a certain Hans Rodolph Saabye, a Danish subject and merchant of that place of good character, of wealth and distinction, and well qualified and disposed to act there for the United States, who would probably accept of the commission of Consul; but that that of Vice-Consul; hitherto given by the President to foreigners in ports where there was no proper American citizen, would probably not be accepted, because in this as in some other ports of Europe, usage has established it as a subordinate grade.—

And that he is therefore of opinion, that the said Hans Rodolph Saabye should be nominated Consul

of the United States of America for the port of Copenhagen, and such other places within the allegiance of his Danish Majesty as shall be nearer to the said port than to the residence of any other Consul or Vice-Consul of the United States within the same allegiance.

REPORT OF DECREE RENDERED BY THE NATIONAL ASSEMBLY OF FRANCE.

December 30, 1793.

The Secretary of State, to whom the President of the United States referred the resolution of the House of Representatives of December 24, 1793, desiring the substance of all such laws, decrees, or ordinances, respecting commerce in any of the countries with which the United States have commercial intercourse, as have been received by the Secretary of State, and not already stated to the House in his report of the 16th instant, reports:

That he has had an official communication of a Decree rendered by the National Assembly of France on the 26th day of March last, of which the following is a translation:

DECREE.

Exempting from all duties the subsistences and other objects of supply in the Colonies, relative to the United States, pronounced in the sitting of the 26th of March, 1793, 2d year of the French Republic.

The National Convention, willing to prevent by precise dispositions, the difficulties that might arise relatively to the execution of its decree of the 19th February last, concerning the United States of America—

to grant favors to this ally-nation, and to treat it, in its commercial relations with the Colonies of France, in the same manner as the vessels of the Republic—decree as follows:

Art. 1. From the day of the publication of the present decree in the French-American Colonies, the vessels of the United States, of the burdens of sixty tons at the least, laden only with meals and subsistences, as well as the objects of supply announced in article 2, of the arrêt of 30th August, 1784, as also lard, butter, salted salmon, and candies shall be admitted into the ports of said Colonies exempt from all duties. The same exemption shall extend to the French vessels laden with the same articles, and coming from a foreign port.

Art. 2. The captains of vessels of the United States, who, having brought into the French American Colonies the objects comprised in the above article, wish to return to the territory of the said States, may lade in the said Colonies, independent of sirups, rum, taffias, and French merchandises, a quantity of coffee equivalent to the one-fiftieth of the tonnage of every vessel, as also a quantity of sugar equal to one-tenth, on conforming to the following articles:

Art. 3. Every captain of an American vessel, who wishes to make returns to the United States of coffee and sugar of the French Colonies, shall make it appear that his vessel entered therein with at least two-thirds of her cargo, according to article 1. For this purpose, he shall be obliged to transmit, within twenty-four hours after his arrival, to the custom-house of the place he may land at, a certificate of the marine agents, establishing the gauge of his vessel and the effective tonnage of her cargo. The heads of the said custom-houses shall assure themselves that the exportation of the sugars and coffee does not exceed the proportion fixed by the second article of the present decree.

Art. 4. The captains of vessels of the United States of America shall not pay, on going from the islands, as well as those of the Republic, but a duty of 5 livres per quintal of indigo, 10 livres per thousand weight of cotton, 5 livres per thousand weight of coffee, 5 livres per thousand weight of brown and clayed sugars, and 50 sols per thousand weight of raw sugar. Every other merchandise shall be exempt from duty on going out of the Colonies.

Art. 5. The sugars and coffee which shall be laden shall pay at the custom-houses which are established in the Colonies, or that shall be established, in addition to the duties above fixed, those imposed by the law of 19th March, 1791, on the sugars and coffee imported from the said Colonies to France, and conformably to the same law.

Art. 6. The captains of vessels of the United States, who wish to lade merchandises of the said Colonies, for the ports of France, shall fur-

nish the custom-house at the place of departure with the bonds required of the masters of French vessels by the second article of the law of 10th July, 1791, to secure the unlading of these merchandises in the ports of the Republic.

Art. 7. The vessels of the nations with whom the French Republic is not at war may carry to the French American Colonies all the objects designated by the present decree. They may also bring, into the ports of the Republic only, all the productions of the said Colonies, on the conditions announced in the said decree, as well as that of 19th of February.

Copy conformable to the original.

GENET.

That he has not received officially any copy of the decree said to have been rendered by the same Assembly on the 27th day of July last, subjecting the vessels of the United States laden with provisions to be carried, against their will, into the ports of France, and those having enemy goods on board to have such goods taken out as legal prize.

That an ordinance has been passed by the Government of Spain, on the 9th day of June last, the substance of which has been officially communicated to him in the following words, to wit:

Extract of an Ordinance that the inhabitants of Louisiana, being deprived of their commerce with France, (on account of the war,) as allowed by the ordinance of January, 1782, &c., His Majesty considering that they and the inhabitants of the Floridas cannot subsist without the means of disposing of their productions and of acquiring those necessary for their own consumption; for that purpose, and to increase the national commerce—the commerce of those provinces and their agriculture—has directed the following articles to be provisionally observed:

The inhabitants of the above-mentioned provinces to be allowed to commerce freely both in Europe and America with all friendly nations who have treaties of commerce with Spain; New Orleans, Pensacola, and St. Augustine, to be ports for that purpose. No exception as to

the articles to be sent or to be received. Every vessel, however, to be subjected to touch at Corcubion, in Gallicia, or Alicant, and to take a permit there, without which, the entry not to be allowed in the ports above mentioned.

The articles of this commerce, carried on thus directly between those provinces and foreign nations to pay a duty of fifteen per cent. importation, except negroes, who may be imported free of duty. The productions and silver exported to purchase those negroes to pay the six per cent. exportation duty. The exportation of silver to be allowed for this purpose only.

The commerce between Spain and those provinces to remain free. Spaniards to be allowed to observe the same rules and to fit out from the same ports (in vessels wholly belonging to them, without connexion with foreigners) for those provinces as for the other Spanish Colonies.

To remove all obstacles to this commerce, all sorts of merchandise destined for Louisiana and the Floridas (even those whose admission is prohibited for other places) may be entered in the ports of Spain, and, in like manner, tobacco and all other prohibited articles may be imported into Spain from these provinces, to be re-exported to foreign countries.

To improve this commerce and encourage the agriculture of those provinces the importation of foreign rice into the ports of Spain is prohibited, and a like preference shall be given to the other productions of these provinces, when they shall suffice for the consumption of Spain.

All articles exported from Spain to these provinces shall be free of duty on exportation, and such as being foreign, shall have paid duty on importation into Spain, shall have it restored to exporters.

These foreign articles, thus exported, to pay a duty of three per cent. on entry into those provinces. Those which are not foreign to be free of duty.

The articles exported from those provinces to Spain to be free of duty, whether consumed in Spain or re-exported to foreign countries.

Those Spanish vessels which, having gone from Spain to those provinces, should desire to bring back productions from thence directly to the foreign ports of Europe, may do it on paying a duty of exportation of three per cent.

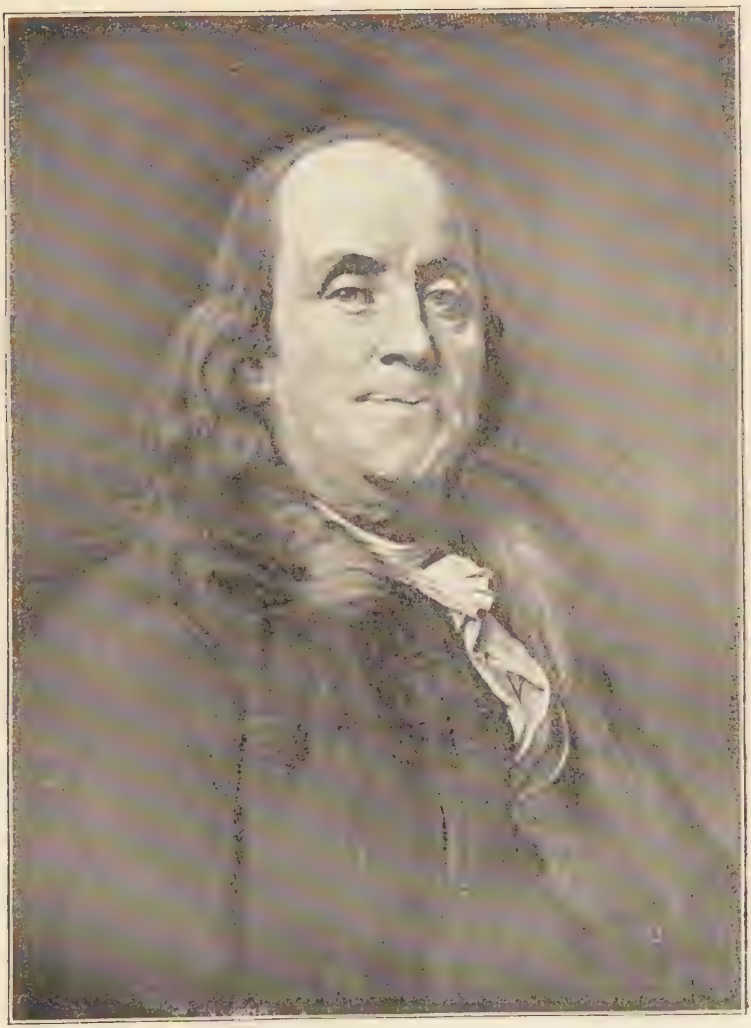
All vessels, both Spanish and foreign, sailing to those provinces, to be prohibited from touching at any other port in His Majesty's American Dominions.

No vessel to be fitted out from New Orleans, Pensacola, or St. Augustine for any of the Spanish islands or other Dominions in America,

except for some urgent cause, in which only the respective Governors to give a permission, but without allowing any other articles to be embarked than the productions of those provinces.

All foreign vessels purchased by His Majesty's subjects, and destined for this commerce, to be exempted from those duties to which they are at present subjected, they proving that they are absolute and sole proprietors thereof.

He takes this occasion to note an act of the British Parliament of the 28 George III., chap. 6, which, though passed before the epoch to which his report aforesaid related, had escaped his researches. The effect of it was to convert the proclamations regulating our direct intercourse with their West Indian Islands into a standing law, and so far to remove the unfavorable distinction between us and foreign nations, stated in the report, leaving it, however, in full force as to our circuitous intercourse with the same islands, and as to our general intercourse, direct and circuitous, with Great Britain and all her other Dominions.



INAUGURAL ADDRESSES

AND

MESSAGES.

INTRODUCTORY NOTES.

During the administrations of Washington and Adams, it was the custom of the President, at the opening of each session of Congress, to meet both Houses, and deliver in person a written speech, to which, in the course of a few days, each House would return an answer through a Committee appointed to wait upon the President, who acknowledged the answer by returning a brief reply. Jefferson changed this system at the beginning of his Presidential term. Instead of meeting the Houses of Congress, and addressing them personally, he sent them a written message, thus substituting messages for speeches. His reasons for this change were the greater convenience of messages over speeches, the economy of time, and the relief of Congress from the necessity of sending answers on subjects in regard to which they were often very imperfectly informed. In the general opinion of the country at that time, this change was in the nature of improvement, and the custom of communicating with Congress by means of messages instead of speeches, has been invariably adopted by all succeeding Presidents.

After serving as Vice-President for four years, Jefferson became President on March 4th, 1801, was re-elected President in 1804, and retired finally from public life, March 4th, 1809. His cabinet, of which Madison and Gallatin were the pillars, were in thorough sympathy with him in his general policy, and its perfect harmony was uninterrupted. He gave his Ministers his entire confidence. "If I had the world to choose from," he said on one occasion, "I could not change one of my associates to my better satisfaction."

The first important act of his administration was to send four of the six vessels constituting the so-called navy of the republic to the Mediterranean to exterminate the Algerine pirates who for half a century had preyed upon the commerce of the world, thus initiating a series of events which in a few years contributed largely to the safety of commerce in the Mediterranean.

Being convinced of the supreme commercial importance of New Orleans, Jefferson directed negotiations to be opened with the French Government, which resulted in the purchase for $15,000,000 of the territory of Louisiana, which had been ceded by Spain to France. The purchase of Louisiana was regarded as the crowning achievement of his administration.

One of the notable events of his second term was his unsuccessful attempt to convict Aaron Burr (Vice-President during his first term) of having engaged in treasonable projects in the southwest. Other important measures of his administration included his efforts to maintain, without war, the rights of neutrals on the high seas; the careful exploration of the western territories; the reduction of the public debt; the fortification of seaports; reorganizing and rearming the militia; diminishing the taxes; and extinguishing the Indians' titles by fair purchase and promoting their emigration beyond the Mississippi.

Everything that Jefferson wrote—in the line of Presidential Messages and other state papers—proved him a great political writer, but his first inaugural address is considered by many critics to be his masterpiece. It presents an exposition of the principles of democracy that has never been surpassed. Every sentence is expressed with force and point, and with a rhetorical grace that invariably tends to enhance the underlying power.

INAUGURAL ADDRESSES AND MESSAGES.

INAUGURATION ADDRESS.—MARCH 4, 1801.

Friends and Fellow Citizens:—

Called upon to undertake the duties of the first executive office of our country, I avail myself of the presence of that portion of my fellow citizens which is here assembled, to express my grateful thanks for the favor with which they have been pleased to look toward me, to declare a sincere consciousness that the task is above my talents, and that I approach it with those anxious and awful presentiments which the greatness of the charge and the weakness of my powers so justly inspire. A rising nation, spread over a wide and fruitful land, traversing all the seas with the rich productions of their industry, engaged in commerce with nations who feel power and forget right, advancing rapidly to destinies beyond the reach of mortal eye—when I contemplate these transcendent objects, and see the honor, the happiness, and the hopes of this beloved country committed to the issue and the auspices of this day, I shrink from the contemplation, and humble myself before the magnitude of the undertaking. Utterly indeed, should I despair, did not the presence of

many whom I here see remind me, that in the other high authorities provided by our constitution, I shall find resources of wisdom, of virtue, and of zeal, on which to rely under all difficulties. To you, then, gentlemen, who are charged with the sovereign functions of legislation, and to those associated with you, I look with encouragement for that guidance and support which may enable us to steer with safety the vessel in which we are all embarked amid the conflicting elements of a troubled world.

During the contest of opinion through which we have passed, the animation of discussion and of exertions has sometimes worn an aspect which might impose on strangers unused to think freely and to speak and to write what they think; but this being now decided by the voice of the nation, announced according to the rules of the constitution, all will, of course, arrange themselves under the will of the law, and unite in common efforts for the common good. All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights, which equal laws must protect, and to violate which would be oppression. Let us, then, fellow citizens, unite with one heart and one mind. Let us restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things. And let us reflect that having banished from our land that religious intolerance under which man-

kind so long bled and suffered, we have yet gained little if we countenance a political intolerance as despotic, as wicked, and capable of as bitter and bloody persecutions. During the throes and convulsions of the ancient world, during the agonizing spasms of infuriated man, seeking through blood and slaughter his long-lost liberty, it was not wonderful that the agitation of the billows should reach even this distant and peaceful shore; that this should be more felt and feared by some and less by others; that this should divide opinions as to measures of safety. But every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all republicans—we are federalists. If there be any among us who would wish to dissolve this Union or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it. I know, indeed, that some honest men fear that a republican government cannot be strong; that this government is not strong enough. But would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm, on the theoretic and visionary fear that this government, the world's best hope, may by possibility want energy to preserve itself? I trust not. I believe this, on the contrary, the strongest government on earth. I believe it is the only one where every man, at the call of the laws,

would fly to the standard of the law, and would meet invasions of the public order as his own personal concern. Sometimes it is said that man cannot be trusted with the government of himself. Can he, then, be trusted with the government of others? Or have we found angels in the forms of kings to govern him? Let history answer this question.

Let us, then, with courage and confidence pursue our own federal and republican principles, our attachment to our union and representative government. Kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe; too high-minded to endure the degradations of the others; possessing a chosen country, with room enough for our descendants to the hundredth and thousandth generation; entertaining a due sense of our equal right to the use of our own faculties, to the acquisitions of our industry, to honor and confidence from our fellow citizens, resulting not from birth but from our actions and their sense of them; enlightened by a benign religion, professed, indeed, and practiced in various forms, yet all of them including honesty, truth, temperance, gratitude, and the love of man; acknowledging and adoring an overruling Providence, which by all its dispensations proves that it delights in the happiness of man here and his greater happiness hereafter; with all these blessings, what more is necessary to make us a happy and prosperous people? Still one thing more, fellow citizens—a wise and frugal government, which shall

restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities.

About to enter, fellow citizens, on the exercise of duties which comprehend everything dear and valuable to you, it is proper that you should understand what I deem the essential principles of our government, and consequently those which ought to shape its administration. I will compress them within the narrowest compass they will bear, stating the general principle, but not all its limitations. Equal and exact justice to all men, of whatever state or persuasion, religious or political; peace, commerce, and honest friendship, with all nations—entangling alliances with none; the support of the state governments in all their rights, as the most competent administrations for our domestic concerns and the surest bulwarks against anti-republican tendencies; the preservation of the general government in its whole constitutional vigor, as the sheet anchor of our peace at home and safety abroad; a jealous care of the right of election by the people—a mild and safe corrective of abuses which are lopped by the sword of the revolution where peaceable remedies are unprovided; absolute acquiescence in the decisions of the majority—the vital principle of republics, from which there is no appeal but to force the vital

principle and immediate parent of despotism; a well-disciplined militia—our best reliance in peace and for the first moments of war, till regulars may relieve them; the supremacy of the civil over the military authority; economy in the public expense, that labor may be lightly burdened; the honest payment of our debts and sacred preservation of the public faith; encouragement of agriculture, and of commerce as its handmaid; the diffusion of information and the arraignment of all abuses at the bar of public reason; freedom of religion; freedom of the press; freedom of person under the protection of the *habeas corpus;* and trial by juries impartially selected—these principles form the bright constellation which has gone before us, and guided our steps through an age of revolution and reformation. The wisdom of our sages and the blood of our heroes have been devoted to their attainment. They should be the creed of our political faith—the text of civil instruction—the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety.

I repair, then, fellow citizens, to the post you have assigned me. With experience enough in subordinate offices to have seen the difficulties of this, the greatest of all, I have learned to expect that it will rarely fall to the lot of imperfect man to retire from this station with the reputation and the favor which

bring him into it. Without pretensions to that high confidence reposed in our first and great revolutionary character, whose preëminent services had entitled him to the first place in his country's love, and destined for him the fairest page in the volume of faithful history, I ask so much confidence only as may give firmness and effect to the legal administration of your affairs. I shall often go wrong through defect of judgment. When right, I shall often be thought wrong by those whose positions will not command a view of the whole ground. I ask your indulgence for my own errors, which will never be intentional; and your support against the errors of others, who may condemn what they would not if seen in all its parts. The approbation implied by your suffrage is a consolation to me for the past; and my future solicitude will be to retain the good opinion of those who have bestowed it in advance, to conciliate that of others by doing them all the good in my power, and to be instrumental to the happiness and freedom of all.

Relying, then, on the patronage of your good will, I advance with obedience to the work, ready to retire from it whenever you become sensible how much better choice it is in your power to make. And may that Infinite Power which rules the destinies of the universe, lead our councils to what is best, and give them a favorable issue for your peace and prosperity.

In communicating his first message to Congress, President Jefferson addressed the following letter to the presiding officer of each branch of the national legislature.]

December 8, 1801.

Sir: The circumstances under which we find ourselves placed rendering inconvenient the mode heretofore practised of making by personal address the first communication between the legislative and executive branches, I have adopted that by message, as used on all subsequent occasions through the session. In doing this, I have had principal regard to the convenience of the legislature, to the economy of their time, to their relief from the embarrassment of immediate answers on subjects not yet fully before them, and to the benefits thence resulting to the public affairs. Trusting that a procedure founded in these motives will meet their approbation, I beg leave, through you, sir, to communicate the enclosed message, with the documents accompanying it, to the honorable the senate, and pray you to accept, for yourself and them, the homage of my high respect and consideration.

The Hon. the President of the Senate.

MESSAGE ON THE ACT FOR THE DEFENCE OF RIVERS AND HARBORS.[1]

March, 1808.

In proceeding to carry into execution the Act, etc., it is found that the sites most advantageous for the defense of our harbors and rivers, and sometimes the only sites competent to that defense are in some cases the property of minors incapable of giving a valid consent to their alienation, in others belong to persons who on no terms will alienate, and in others the proprietors demand such exaggerated compensation as, however liberally the public ought to compensate in such cases, would exceed all bounds of justice or liberality. From this cause the defense of our seaboard, so necessary to be pressed during

[1] This message, which is not included in the Congressional Edition of 1853, is indorsed "Dept. of State, received March 24, '08. Message for Sites."

The following paragraphs were written by Madison: "Incapable of giving a valid consent to their alienation, in others belong to persons who may refuse altogether to alienate, or demand a compensation far beyond the liberal justice allowable in such cases. From these causes the defence of our seaboard, so necessary to be pressed during the present season, will in various parts be defeated, unless a remedy can be applied. With a view to this I submit the case to the consideration of Congress, who estimating its importance and reviewing the powers vested in them by the constitution combined with the amendment providing that private property shall not be taken for public use, without just compensation, will decide on the course most proper to be pursued."

"I am aware that as the consent, etc."

"(For consideration.) As the constitutionality will be much agitated, it is doubted whether a precise opinion on that or the legal process be eligible."

the present season will in various parts be defeated, unless the national legislature can apply a constitutional remedy. The power of repelling invasions, and making laws necessary for carrying that power into execution seems to include that of occupying those sites which are necessary to repel an enemy; observing only the amendment to the constitution which provides that private property shall not be taken for public use without just compensation. I submit therefore to the consideration of Congress, where the necessary sites cannot be obtained by the joint and valid consent of parties, whether provision should be made by a process of *ad quod damnum*, or any other more eligible means for authorizing the sites which are necessary for the public defense to be appropriated to that purpose.

I am aware that as the consent of the legislature of the state to the purchase of the site may not, in some instances have been previously obtained, exclusive legislation cannot be exercised therein by Congress until that consent is given. But in the meantime it will be held under the same laws which protect the property of individuals in that state and other property of the United States and the legislatures at their next meetings will have opportunities of doing what will be so evidently called for by the interest of their own State.

FIRST ANNUAL MESSAGE.—DECEMBER 8, 1801.

Fellow Citizens of the Senate and House of Representatives:

It is a circumstance of sincere gratification to me that on meeting the great council of our nation, I am able to announce to them, on the grounds of reasonable certainty, that the wars and troubles which have for so many years afflicted our sister nations have at length come to an end, and that the communications of peace and commerce are once more opening among them. While we devoutly return thanks to the beneficent Being who has been pleased to breathe into them the spirit of conciliation and forgiveness, we are bound with peculiar gratitude to be thankful to him that our own peace has been preserved through so perilous a season, and ourselves permitted quietly to cultivate the earth and to practice and improve those arts which tend to increase our comforts. The assurances, indeed, of friendly disposition, received from all the powers with whom we have principal relations, had inspired a confidence that our peace with them would not have been disturbed. But a cessation of the irregularities which had affected the commerce of neutral nations, and of the irritations and injuries produced by them, cannot but add to this confidence; and strengthens, at the same time, the hope, that wrongs committed on unoffending friends, under a pressure of circumstances, will now be reviewed with candor, and will

be considered as founding just claims of retribution for the past and new assurance for the future.

Among our Indian neighbors, also, a spirit of peace and friendship generally prevails; and I am happy to inform you that the continued efforts to introduce among them the implements and the practice of husbandry, and of the household arts, have not been without success; that they are becoming more and more sensible of the superiority of this dependence for clothing and subsistence over the precarious resources of hunting and fishing; and already we are able to announce, that instead of that constant diminution of their numbers, produced by their wars and their wants, some of them begin to experience an increase of population.

To this state of general peace with which we have been blessed, one only exception exists. Tripoli, the least considerable of the Barbary States, had come forward with demands unfounded either in right or in compact, and had permitted itself to denounce war, on our failure to comply before a given day. The style of the demand admitted but one answer. I sent a small squadron of frigates into the Mediterranean, with assurances to that power of our sincere desire to remain in peace, but with orders to protect our commerce against the threatened attack. The measure was seasonable and salutary. The bey had already declared war in form. His cruisers were out. Two had arrived at Gibraltar. Our commerce in the Mediterranean was blockaded,

and that of the Atlantic in peril. The arrival of our squadron dispelled the danger. One of the Tripolitan cruisers having fallen in with, and engaged the small schooner Enterprise, commanded by Lieutenant Sterret, which had gone as a tender to our larger vessels, was captured, after a heavy slaughter of her men, without the loss of a single one on our part. The bravery exhibited by our citizens on that element, will, I trust, be a testimony to the world that it is not the want of that virtue which makes us seek their peace, but a conscientious desire to direct the energies of our nation to the multiplication of the human race, and not to its destruction. Unauthorized by the constitution, without the sanction of Congress, to go beyond the line of defence, the vessel being disabled from committing further hostilities, was liberated with its crew. The legislature will doubtless consider whether, by authorizing measures of offence, also, they will place our force on an equal footing with that of its adversaries. I communicate all material information on this subject, that in the exercise of the important function confided by the constitution to the legislature exclusively, their judgment may form itself on a knowledge and consideration of every circumstance of weight.

I wish I could say that our situation with all the other Barbary states was entirely satisfactory. Discovering that some delays had taken place in the performance of certain articles stipulated by us, I

thought it my duty, by immediate measures for fulfilling them, to vindicate to ourselves the right of considering the effect of departure from stipulation on their side. From the papers which will be laid before you, you will be enabled to judge whether our treaties are regarded by them as fixing at all the measure of their demands, or as guarding from the exercise of force our vessels within their power; and to consider how far it will be safe and expedient to leave our affairs with them in their present posture.

I lay before you the result of the census lately taken of our inhabitants, to a conformity with which we are to reduce the ensuing rates of representation and taxation. You will perceive that the increase of numbers during the last ten years, proceeding in geometrical ratio, promises a duplication in little more than twenty-two years. We contemplate this rapid growth, and the prospect it holds up to us, not with a view to the injuries it may enable us to do to others in some future day, but to the settlement of the extensive country still remaining vacant within our limits, to the multiplications of men susceptible of happiness, educated in the love of order, habituated to self-government, and valuing its blessings above all price.

Other circumstances, combined with the increase of numbers, have produced an augmentation of revenue arising from consumption, in a ratio far beyond that of population alone, and though the changes of foreign relations now taking place so desirably for

the world, may for a season affect this branch of revenue, yet, weighing all probabilities of expense, as well as of income, there is reasonable ground of confidence that we may now safely dispense with all the internal taxes, comprehending excises, stamps, auctions, licenses, carriages, and refined sugars, to which the postage on newspapers may be added, to facilitate the progress of information, and that the remaining sources of revenue will be sufficient to provide for the support of government, to pay the interest on the public debts, and to discharge the principals in shorter periods than the laws or the general expectations had contemplated. War, indeed, and untoward events, may change this prospect of things, and call for expenses which the imposts could not meet; but sound principles will not justify our taxing the industry of our fellow citizens to accumulate treasure for wars to happen we know not when, and which might not perhaps happen but from the temptations offered by that treasure.

These views, however, of reducing our burdens, are formed on the expectation that a sensible, and at the same time a salutary reduction, may take place in our habitual expenditures. For this purpose those of the civil government, the army, and navy, will need revisal.

When we consider that this government is charged with the external and mutual relations only of these states; that the states themselves have principal care of our persons, our property, and our reputation,

constituting the great field of human concerns, we may well doubt whether our organization is not too complicated, too expensive; whether offices and officers have not been multiplied unnecessarily, and sometimes injuriously to the service they were meant to promote. I will cause to be laid before you an essay toward a statement of those who, under public employment of various kinds, draw money from the treasury or from our citizens. Time has not permitted a perfect enumeration, the ramifications of office being too multiplied and remote to be completely traced in a first trial. Among those who are dependent on executive discretion, I have begun the reduction of what was deemed necessary. The expenses of diplomatic agency have been considerably diminished. The inspectors of internal revenue who were found to obstruct the accountability of the institution, have been discontinued. Several agencies created by executive authority, on salaries fixed by that also, have been suppressed, and should suggest the expediency of regulating that power by law, so as to subject its exercises to legislative inspection and sanction. Other reformations of the same kind will be pursued with that caution which is requisite in removing useless things, not to injure what is retained. But the great mass of public offices is established by law, and, therefore, by law alone can be abolished. Should the legislature think it expedient to pass this roll in review, and try all its parts by the test of public utility, they may be

assured of every aid and light which executive information can yield. Considering the general tendency to multiply offices and dependencies, and to increase expense to the ultimate term of burden which the citizen can bear, it behooves us to avail ourselves of every occasion which presents itself for taking off the surcharge; that it never may be seen here that, after leaving to labor the smallest portion of its earnings on which it can subsist, government shall itself consume the residue of what it was instituted to guard.

In our care, too, of the public contributions intrusted to our direction, it would be prudent to multiply barriers against their dissipation, by appropriating specific sums to every specific purpose susceptible of definition; by disallowing all applications of money varying from the appropriation in object, or transcending it in amount; by reducing the undefined field of contingencies, and thereby circumscribing discretionary powers over money; and by bringing back to a single department all accountabilities for money where the examination may be prompt, efficacious, and uniform.

An account of the receipts and expenditures of the last year, as prepared by the secretary of the treasury, will as usual be laid before you. The success which has attended the late sales of the public lands, shows that with attention they may be made an important source of receipt. Among the payments, those made in discharge of the principal and

interest of the national debt, will show that the public faith has been exactly maintained. To these will be added an estimate of appropriations necessary for the ensuing year. This last will of course be effected by such modifications of the systems of expense, as you shall think proper to adopt.

A statement has been formed by the secretary of war, on mature consideration, of all the posts and stations where garrisons will be expedient, and of the number of men requisite for each garrison. The whole amount is considerably short of the present military establishment. For the surplus no particular use can be pointed out. For defence against invasion, their number is as nothing; nor is it conceived needful or safe that a standing army should be kept up in time of peace for that purpose. Uncertain as we must ever be of the particular point in our circumference where an enemy may choose to invade us, the only force which can be ready at every point and competent to oppose them, is the body of neighboring citizens as formed into a militia. On these, collected from the parts most convenient, in numbers proportioned to the invading foe, it is best to rely, not only to meet the first attack, but if it threatens to be permanent, to maintain the defence until regulars may be engaged to relieve them. These considerations render it important that we should at every session continue to amend the defects which from time to time show themselves in the laws for regulating the militia, until they are suf-

ficiently perfect. Nor should we now or at any time separate, until we can say we have done everything for the militia which we could do were an enemy at our door.

The provisions of military stores on hand will be laid before you, that you may judge of the additions still requisite.

With respect to the extent to which our naval preparations should be carried, some difference of opinion may be expected to appear; but just attention to the circumstances of every part of the Union will doubtless reconcile all. A small force will probably continue to be wanted for actual service in the Mediterranean. Whatever annual sum beyond that you may think proper to appropriate to naval preparations, would perhaps be better employed in providing those articles which may be kept without waste or consumption, and be in readiness when any exigence calls them into use. Progress has been made, as will appear by papers now communicated, in providing materials for seventy-four gun ships as directed by law.

How far the authority given by the legislature for procuring and establishing sites for naval purposes has been perfectly understood and pursued in the execution, admits of some doubt. A statement of the expenses already incurred on that subject, shall be laid before you. I have in certain cases suspended or slackened these expenditures, that the legislature might determine whether so many yards

are necessary as have been contemplated. The works at this place are among those permitted to go on; and five of the seven frigates directed to be laid up, have been brought and laid up here, where, besides the safety of their position, they are under the eye of the executive administration, as well as of its agents, and where yourselves also will be guided by your own view in the legislative provisions respecting them which may from time to time be necessary. They are preserved in such condition, as well the vessels as whatever belongs to them, as to be at all times ready for sea on a short warning. Two others are yet to be laid up so soon as they shall have received the repairs requisite to put them also into sound condition. As a superintending officer will be necessary at each yard, his duties and emoluments, hitherto fixed by the executive, will be a more proper subject for legislation. A communication will also be made of our progress in the execution of the law respecting the vessels directed to be sold.

The fortifications of our harbors, more or less advanced, present considerations of great difficulty. While some of them are on a scale sufficiently proportioned to the advantages of their position, to the efficacy of their protection, and the importance of the points within it, others are so extensive, will cost so much in their first erection, so much in their maintenance, and require such a force to garrison them, as to make it questionable what is best now to be done. A statement of those commenced or pro-

jected, of the expenses already incurred, and estimates of their future cost, so far as can be foreseen, shall be laid before you, that you may be enabled to judge whether any attention is necessary in the laws respecting this subject.

Agriculture, manufactures, commerce, and navigation, the four pillars of our prosperity, are the most thriving when left most free to individual enterprise. Protection from casual embarrassments, however, may sometimes be seasonably interposed. If in the course of your observations or inquiries they should appear to need any aid within the limits of our constitutional powers, your sense of their importance is a sufficient assurance they will occupy your attention. We cannot, indeed, but all feel an anxious solicitude for the difficulties under which our carrying trade will soon be placed. How far it can be relieved, otherwise than by time, is a subject of important consideration.

The judiciary system of the United States, and especially that portion of it recently erected, will of course present itself to the contemplation of Congress; and that they may be able to judge of the proportion which the institution bears to the business it has to perform, I have caused to be procured from the several States, and now lay before Congress, an exact statement of all the causes decided since the first establishment of the courts, and of those which were depending when additional courts and judges were brought in to their aid.

And while on the judiciary organization, it will be worthy your consideration, whether the protection of the inestimable institution of juries has been extended to all the cases involving the security of our persons and property. Their impartial selection also being essential to their value, we ought further to consider whether that is sufficiently secured in those States where they are named by a marshal depending on executive will, or designated by the court or by officers dependent on them.

I cannot omit recommending a revisal of the laws on the subject of naturalization. Considering the ordinary chances of human life, a denial of citizenship under a residence of fourteen years is a denial to a great proportion of those who ask it, and controls a policy pursued from their first settlement by many of these States, and still believed of consequence to their prosperity. And shall we refuse the unhappy fugitives from distress that hospitality which the savages of the wilderness extended to our fathers arriving in this land? Shall oppressed humanity find no asylum on this globe? The constitution, indeed, has wisely provided that, for admission to certain offices of important trust, a residence shall be required sufficient to develop character and design. But might not the general character and capabilities of a citizen be safely communicated to every one manifesting a *bona fide* purpose of embarking his life and fortunes permanently with us? with restrictions, perhaps, to guard against the

fraudulent usurpation of our flag; an abuse which brings so much embarrassment and loss on the genuine citizen, and so much danger to the nation of being involved in war, that no endeavor should be spared to detect and suppress it.

These, fellow citizens, are the matters respecting the state of the nation, which I have thought of importance to be submitted to your consideration at this time. Some others of less moment, or not yet ready for communication, will be the subject of separate messages. I am happy in this opportunity of committing the arduous affairs of our government to the collected wisdom of the Union. Nothing shall be wanting on my part to inform, as far as in my power, the legislative judgment, nor to carry that judgment into faithful execution. The prudence and temperance of your discussions will promote, within your own walls, that conciliation which so much befriends rational conclusion; and by its example will encourage among our constituents that progress of opinion which is tending to unite them in object and in will. That all should be satisfied with any one order of things is not to be expected, but I indulge the pleasing persuasion that the great body of our citizens will cordially concur in honest and disinterested efforts, which have for their object to preserve the general and State governments in their constitutional form and equilibrium; to maintain peace abroad, and order and obedience to the laws at home; to establish principles and practices of

administration favorable to the security of liberty and property, and to reduce expenses to what is necessary for the useful purposes of government.

SECOND ANNUAL MESSAGE.—DECEMBER 15, 1802.

To the Senate and House of Representatives of the United States:—

When we assemble together, fellow citizens, to consider the state of our beloved country, our just attentions are first drawn to those pleasing circumstances which mark the goodness of that Being from whose favor they flow, and the large measure of thankfulness we owe for his bounty. Another year has come around, and finds us still blessed with peace and friendship abroad; law, order, and religion, at home; good affection and harmony with our Indian neighbors; our burdens lightened, yet our income sufficient for the public wants, and the produce of the year great beyond example. These, fellow citizens, are the circumstances under which we meet; and we remark with special satisfaction, those which, under the smiles of Providence, result from the skill, industry and order of our citizens, managing their own affairs in their own way and for their own use, unembarrassed by too much regulations, unoppressed by fiscal exactions.

On the restoration of peace in Europe, that portion of the general carrying trade which had fallen to our share during the war, was abridged by the returning

competition of the belligerent powers. This was to be expected, and was just. But in addition we find in some parts of Europe monopolizing discriminations, which, in the form of duties, tend effectually to prohibit the carrying thither our own produce in our own vessels. From existing amities, and a spirit of justice, it is hoped that friendly discussion will produce a fair and adequate reciprocity. But should false calculations of interest defeat our hope, it rests with the legislature to decide whether they will meet inequalities abroad with countervailing inequalities at home, or provide for the evil in any other way.

It is with satisfaction I lay before you an act of the British parliament anticipating this subject so far as to authorize a mutual abolition of the duties and countervailing duties permitted under the treaty of 1794. It shows on their part a spirit of justice and friendly accommodation which it is our duty and our interest to cultivate with all nations. Whether this would produce a due equality in the navigation between the two countries, is a subject for your consideration.

Another circumstance which claims attention, as directly affecting the very source of our navigation, is the defect or the evasion of the law providing for the return of seamen, and particularly of those belonging to vessels sold abroad. Numbers of them, discharged in foreign ports, have been thrown on the hands of our consuls, who, to rescue them from the dangers into which their distresses might plunge

them, and save them to their country, have found it necessary in some cases to return them at the public charge.

The cession of the Spanish province of Louisiana to France, which took place in the course of the late war, will, if carried into effect, make a change in the aspect of our foreign relations which will doubtless have a just weight in any deliberations of the legislature connected with that subject.

There was reason, not long since, to apprehend that the warfare in which we were engaged with Tripoli might be taken up by some others of the Barbary powers. A reinforcement, therefore, was immediately ordered to the vessels already there. Subsequent information, however, has removed these apprehensions for the present. To secure our commerce in that sea with the smallest force competent, we have supposed it best to watch strictly the harbor of Tripoli. Still, however, the shallowness of their coast, and the want of smaller vessels on our part, has permitted some cruisers to escape unobserved; and to one of these an American vessel unfortunately fell a prey. The captain, one American seaman, and two others of color, remain prisoners with them unless exchanged under an agreement formerly made with the bashaw, to whom, on the faith of that, some of his captive subjects had been restored.

The convention with the State of Georgia has been ratified by their legislature, and a repurchase from the Creeks has been consequently made of a part of

the Tallahassee county. In this purchase has been also comprehended part of the lands within the fork of Oconee and Oakmulgee rivers. The particulars of the contract will be laid before Congress so soon as they shall be in a state for communication.

In order to remove every ground of difference possible with our Indian neighbors, I have proceeded in the work of settling with them and marking the boundaries between us. That with the Choctaw nation is fixed in one part, and will be through the whole in a short time. The country to which their title had been extinguished before the revolution is sufficient to receive a very respectable population, which Congress will probably see the expediency of encouraging so soon as the limits shall be declared. We are to view this position as an outpost of the United States, surrounded by strong neighbors and distant from its support. And how far that monopoly which prevents population should here be guarded against, and actual habitation made a condition of the continuance of title, will be for your consideration. A prompt settlement, too, of all existing rights and claims within this territory, presents itself as a preliminary operation.

In that part of the Indian territory which includes Vincennes, the lines settled with the neighboring tribes fix the extinction of their title at a breadth of twenty-four leagues from east to west, and about the same length parallel with and including the Wabash. They have also ceded a tract of four

miles square, including the salt springs near the mouth of the river.

In the department of finance it is with pleasure I inform you that the receipts of external duties for the last twelve months have exceeded those of any former year, and that the ratio of increase has been also greater than usual. This has enabled us to answer all the regular exigencies of government, to pay from the treasury in one year upward of eight millions of dollars, principal and interest, of the public debt, exclusive of upward of one million paid by the sale of bank stock, and making in the whole a reduction of nearly five millions and a half of principal; and to have now in the treasury four millions and a half of dollars, which are in a course of application to a further discharge of debt and current demands. Experience, too, so far, authorizes us to believe, if no extraordinary event supervenes, and the expenses which will be actually incurred shall not be greater than were contemplated by Congress at their last session, that we shall not be disappointed in the expectations then formed. But nevertheless, as the effect of peace on the amount of duties is not yet fully ascertained, it is the more necessary to practice every useful economy, and to incur no expense which may be avoided without prejudice.

The collection of the internal taxes having been completed in some of the States, the officers employed in it are of course out of commission. In

others, they will be so shortly. But in a few, where the arrangement for the direct tax had been retarded, it will still be some time before the system is closed. It has not yet been thought necessary to employ the agent authorized by an act of the last session for transacting business in Europe relative to debts and loans. Nor have we used the power confided by the same act, of prolonging the foreign debts by reloans, and of redeeming, instead thereof, an equal sum of the domestic debt. Should, however, the difficulties of remittances on so large a scale render it necessary at any time, the power shall be executed, and the money thus unemployed abroad shall, in conformity with that law, be faithfully applied here in an equivalent extinction of domestic debt. When effects so salutary result from the plans you have already sanctioned, when merely by avoiding false objects of expense we are able, without a direct tax, without internal taxes, and without borrowing, to make large and effectual payments toward the discharge of our public debt and the emancipation of our posterity from that moral canker, it is an encouragement, fellow citizens, of the highest order, to proceed as we have begun, in substituting economy for taxation, and in pursuing what is useful for a nation placed as we are, rather than what is practiced by others under different circumstances. And whensoever we are destined to meet events which shall call forth all the energies of our countrymen, we have the firmest reliance on those energies, and the comfort of leaving

for calls like these the extraordinary resources of loans and internal taxes. In the meantime, by payments of the principal of our debt, we are liberating, annually, portions of the external taxes, and forming from them a growing fund still further to lessen the necessity of recurring to extraordinary resources.

The usual accounts of receipts and expenditures for the last year, with an estimate of the expenses of the ensuing one, will be laid before you by the secretary of the treasury.

No change being deemed necessary in our military establishment, an estimate of its expenses for the ensuing year on its present footing, as also of the sums to be employed in fortifications and other objects within that department, has been prepared by the secretary of war, and will make a part of the general estimates which will be presented to you.

Considering that our regular troops are employed for local purposes, and that the militia is our general reliance for great and sudden emergencies, you will doubtless think this institution worthy of a review, and give it those improvements of which you find it susceptible.

Estimates for the naval department, prepared by the secretary of the navy for another year, will in like manner be communicated with the general estimates. A small force in the Mediterranean will still be necessary to restrain the Tripoline cruisers, and the uncertain tenure of peace with some other of the Barbary powers, may eventually require that

force to be augmented. The necessity of procuring some smaller vessels for that service will raise the estimate, but the difference in their maintenance will soon make it a measure of economy.

Presuming it will be deemed expedient to expend annually a sum towards providing the naval defence which our situation may require, I cannot but recommend that the first appropriations for that purpose may go to the saving what we already possess. No cares, no attentions, can preserve vessels from rapid decay which lie in water and exposed to the sun. These decays require great and constant repairs, and will consume, if continued, a great portion of the money destined to naval purposes. To avoid this waste of our resources, it is proposed to add to our navy-yard here a dock, within which our vessels may be laid up dry and under cover from the sun. Under these circumstances experience proves that works of wood will remain scarcely at all affected by time. The great abundance of running water which this situation possesses, at heights far above the level of the tide, if employed as is practised for lock navigation, furnishes the means of raising and laying up our vessels on a dry and sheltered bed. And should the measure be found useful here, similar depositories for laying up as well as for building and repairing vessels may hereafter be undertaken at other navy-yards offering the same means. The plans and estimates of the work, prepared by a person of skill and experience, will be presented to

you without delay; and from this it will be seen that scarcely more than has been the cost of one vessel is necessary to save the whole, and that the annual sum to be employed toward its completion may be adapted to the views of the legislature as to naval expenditure.

To cultivate peace and maintain commerce and navigation in all their lawful enterprises; to foster our fisheries and nurseries of navigation and for the nurture of man, and protect the manufactures adapted to our circumstances; to preserve the faith of the nation by an exact discharge of its debts and contracts, expend the public money with the same care and economy we would practise with our own, and impose on our citizens no unnecessary burden; to keep in all things within the pale of our constitutional powers, and cherish the federal union as the only rock of safety—these, fellow citizens, are the landmarks by which we are to guide ourselves in all our proceedings. By continuing to make these our rule of action, we shall endear to our countrymen the true principles of their constitution, and promote a union of sentiment and of action equally auspicious to their happiness and safety. On my part, you may count on a cordial concurrence in every measure for the public good, and on all the information I possess which may enable you to discharge to advantage the high functions with which you are invested by your country.

SPECIAL MESSAGE.—JANUARY 28, 1802.[1]

Gentlemen of the Senate and House of Representatives:

I lay before you the accounts of our Indian trading houses, as rendered up to the first day of January, 1801, with a report of the secretary of war thereon, explaining the effects and the situation of that commerce, and the reasons in favor of its farther extension. But it is believed that the act authorizing this trade expired so long ago as the 3d of March, 1799. Its revival, therefore, as well as its extension, is submitted to the consideration of the legislature.

The act regulating trade and intercourse with the Indian tribes will also expire on the 3d day of March next. While on the subject of its continuance, it will be worthy the consideration of the legislature, whether the provisions of the law inflicting on Indians, in certain cases, the punishment of death by hanging, might not permit its commutation into death by military execution, the form of the punishment in the former way being peculiarly repugnant to their ideas, and increasing the obstacles to the surrender of the criminal.

These people are becoming very sensible of the baneful effects produced on their morals, their health and existence, by the abuse of ardent spirits, and some of them earnestly desire a prohibition of that article from being carried among them. The legis-

[1] See Confidential Message recommending a Western Exploring Expedition in Appendix, p. 489.

lature will consider whether the effectuating that desire would not be in the spirit of benevolence and liberality which they have hitherto practised toward these our neighbors, and which has had so happy an effect toward conciliating their friendship. It has been found too, in experience, that the same abuse gives frequent rise to incidents tending much to commit our peace with the Indians.

It is now become necessary to run and mark the boundaries between them and us in various parts. The law last mentioned has authorized this to be done, but no existing appropriation meets the expense.

Certain papers, explanatory of the grounds of this communication, are herewith enclosed.

SPECIAL MESSAGE.—FEBRUARY 24, 1803.

Gentlemen of the Senate and House of Representatives:

I lay before you a report of the secretary of state on the case of the Danish brigantine Henrick, taken by a French privateer in 1799, retaken by an armed vessel of the United States, carried into a British island and there adjudged to be neutral, but under an allowance of such salvage and costs as absorbed nearly the whole amount of sales of the vessel and cargo. Indemnification for these losses, occasioned by our officers, is now claimed by the sufferers, supported by the representation of their government. I have no doubt the legislature will give to the

subject that just attention and consideration which it is useful as well as honorable to practise in our transactions with other nations, and particularly with one which has observed toward us the most friendly treatment and regard.

THIRD ANNUAL MESSAGE.—OCTOBER 17, 1803.

To the Senate and House of Representatives of the United States:—

In calling you together, fellow citizens, at an earlier day than was contemplated by the act of the last session of Congress, I have not been insensible to the personal inconveniences necessarily resulting from an unexpected change in your arrangements. But matters of great public concernment have rendered this call necessary, and the interest you feel in these will supersede in your minds all private considerations.

Congress witnessed, at their last session, the extraordinary agitation produced in the public mind by the suspension of our right of deposit at the port of New Orleans, no assignment of another place having been made according to treaty. They were sensible that the continuance of that privation would be more injurious to our nation than any consequences which could flow from any mode of redress, but reposing just confidence in the good faith of the government whose officer had committed the wrong,

friendly and reasonable representations were resorted to, and the right of deposit was restored.

Previous, however, to this period, we had not been unaware of the danger to which our peace would be perpetually exposed while so important a key to the commerce of the western country remained under foreign power. Difficulties, too, were presenting themselves as to the navigation of other streams, which, arising within our territories, pass through those adjacent. Propositions had, therefore, been authorized for obtaining, on fair conditions, the sovereignty of New Orleans, and of other possessions in that quarter interesting to our quiet, to such extent as was deemed practicable; and the provisional appropriation of two millions of dollars, to be applied and accounted for by the president of the United States, intended as part of the price, was considered as conveying the sanction of Congress to the acquisition proposed. The enlightened Government of France saw, with just discernment, the importance to both nations of such liberal arrangements as might best and permanently promote the peace, friendship, and interests of both; and the property and sovereignty of all Louisiana, which had been restored to them, have on certain conditions been transferred to the United States by instruments bearing date the 30th of April last. When these shall have received the constitutional sanction of the senate, they will without delay be communicated to the representatives also, for the

exercise of their functions, as to those conditions which are within the powers vested by the constitution in Congress. While the property and sovereignty of the Mississippi and its waters secure an independent outlet for the produce of the western States, and an uncontrolled navigation through their whole course, free from collision with other powers and the dangers to our peace from that source, the fertility of the country, its climate and extent, promise in due season important aids to our treasury, an ample provision for our posterity, and a widespread field for the blessings of freedom and equal laws.

With the wisdom of Congress it will rest to take those ulterior measures which may be necessary for the immediate occupation and temporary government of the country; for its incorporation into our Union; for rendering the change of government a blessing to our newly-adopted brethren; for securing to them the rights of conscience and of property; for confirming to the Indian inhabitants their occupancy and self-government, establishing friendly and commercial relations with them, and for ascertaining the geography of the country acquired. Such materials for your information, relative to its affairs in general, as the short space of time has permitted me to collect, will be laid before you when the subject shall be in a state for your consideration.

Another important acquisition of territory has also been made since the last session of Congress. The

friendly tribe of Kaskaskia Indians with which we have never had a difference, reduced by the wars and wants of savage life to a few individuals unable to defend themselves against the neighboring tribes, has transferred its country to the United States, reserving only for its members what is sufficient to maintain them in an agricultural way. The considerations stipulated are, that we shall extend to them our patronage and protection, and give them certain annual aids in money, in implements of agriculture, and other articles of their choice. This country, among the most fertile within our limits, extending along the Mississippi from the mouth of the Illinois to and up the Ohio, though not so necessary as a barrier since the acquisition of the other bank, may yet be well worthy of being laid open to immediate settlement, as its inhabitants may descend with rapidity in support of the lower country should future circumstances expose that to foreign enterprize. As the stipulations in this treaty also involve matters within the competence of both houses only, it will be laid before Congress as soon as the senate shall have advised its ratification.

With many other Indian tribes, improvements in agriculture and household manufacture are advancing, and with all our peace and friendship are established on grounds much firmer than heretofore. The measure adopted of establishing trading houses among them, and of furnishing them necessaries in exchange for their commodities, at such moderated

prices as leave no gain, but cover us from loss, has the most conciliatory and useful effect upon them, and is that which will best secure their peace and good will.

The small vessels authorized by Congress with a view to the Mediterranean service, have been sent into that sea, and will be able more effectually to confine the Tripoline cruisers within their harbors, and supersede the necessity of convoy to our commerce in that quarter. They will sensibly lessen the expenses of that service the ensuing year.

A further knowledge of the ground in the north-eastern and north-western angles of the United States has evinced that the boundaries established by the treaty of Paris, between the British territories and ours in those parts, were too imperfectly described to be susceptible of execution. It has therefore been thought worthy of attention, for preserving and cherishing the harmony and useful intercourse subsisting between the two nations, to remove by timely arrangements what unfavorable incidents might otherwise render a ground of future misunderstanding. A convention has therefore been entered into, which provides for a practicable demarkation of those limits to the satisfaction of both parties.

An account of the receipts and expenditures of the year ending 30th September last, with the estimates for the service of the ensuing year, will be laid before you by the secretary of the treasury so soon as the receipts of the last quarter shall be

returned from the more distant States. It is already ascertained that the amount paid into the treasury for that year has been between eleven and twelve millions of dollars, and that the revenue accrued during the same term exceeds the sum counted on as sufficient for our current expenses, and to extinguish the public debt within the period heretofore proposed.

The amount of debt paid for the same year is about three millions one hundred thousand dollars, exclusive of interest, and making, with the payment of the preceding year, a discharge of more than eight millions and a half of dollars of the principal of that debt, besides the accruing interest; and there remain in the treasury nearly six millions of dollars. Of these, eight hundred and eighty thousand have been reserved for payment of the first instalment due under the British convention of January 8th, 1802, and two millions are what have been before mentioned as placed by Congress under the power and accountability of the president, toward the price of New Orleans and other territories acquired, which, remaining untouched, are still applicable to that object, and go in diminution of the sum to be funded for it.

Should the acquisition of Louisiana be constitutionally confirmed and carried into effect, a sum of nearly thirteen millions of dollars will then be added to our public debt, most of which is payable after fifteen years; before which term the present existing

debts will all be discharged by the established operation of the sinking fund. When we contemplate the ordinary annual augmentation of imposts from increasing population and wealth, the augmentation of the same revenue by its extension to the new acquisition, and the economies which may still be introduced into our public expenditures, I cannot but hope that Congress in reviewing their resources will find means to meet the intermediate interests of this additional debt without recurring to new taxes, and applying to this object only the ordinary progression of our revenue. Its extraordinary increase in times of foreign war will be the proper and sufficient fund for any measures of safety or precaution which that state of things may render necessary in our neutral position.

Remittances for the instalments of our foreign debt having been found practicable without loss, it has not been thought expedient to use the power given by a former act of Congress of continuing them by reloans, and of redeeming instead thereof equal sums of domestic debt, although no difficulty was found in obtaining that accommodation.

The sum of fifty thousand dollars appropriated by Congress for providing gun-boats, remains unexpended. The favorable and peaceful turn of affairs on the Mississippi rendered an immediate execution of that law unnecessary, and time was desirable in order that the institution of that branch of our force might begin on models the most approved by expe-

rience. The same issue of events dispensed with a resort to the appropriation of a million and a half of dollars contemplated for purposes which were effected by happier means.

We have seen with sincere concern the flames of war lighted up again in Europe, and nations with which we have the most friendly and useful relations engaged in mutual destruction. While we regret the miseries in which we see others involved, let us bow with gratitude to that kind Providence which, inspiring with wisdom and moderation our late legislative councils while placed under the urgency of the greatest wrongs, guarded us from hastily entering into the sanguinary contest, and left us only to look on and to pity its ravages. These will be heaviest on those immediately engaged. Yet the nations pursuing peace will not be exempt from all evil. In the course of this conflict, let it be our endeavor, as it is our interest and desire, to cultivate the friendship of the belligerent nations by every act of justice and of incessant kindness; to receive their armed vessels with hospitality from the distresses of the sea, but to administer the means of annoyance to none; to establish in our harbors such a police as may maintain law and order; to restrain our citizens from embarking individually in a war in which their country takes no part; to punish severely those persons, citizen or alien, who shall usurp the cover of our flag for vessels not entitled to it, infecting thereby with suspicion those of real Americans, and

committing us into controversies for the redress of wrongs not our own; to exact from every nation the observance, toward our vessels and citizens, of those principles and practices which all civilized people acknowledge; to merit the character of a just nation, and maintain that of an independent one, preferring every consequence to insult and habitual wrong. Congress will consider whether the existing laws enable us efficaciously to maintain this course with our citizens in all places, and with others while within the limits of our jurisdiction, and will give them the new modifications necessary for these objects. Some contraventions of right have already taken place, both within our jurisdictional limits and on the high seas. The friendly disposition of the governments from whose agents they have proceeded, as well as their wisdom and regard for justice, leave us in reasonable expectation that they will be rectified and prevented in future; and that no act will be countenanced by them which threatens to disturb our friendly intercourse. Separated by a wide ocean from the nations of Europe, and from the political interests which entangle them together, with productions and wants which render our commerce and friendship useful to them and theirs to us, it cannot be the interest of any to assail us, nor ours to disturb them. We should be most unwise, indeed, were we to cast away the singular blessings of the position in which nature has placed us, the opportunity she has endowed us with of pursuing, at a dis-

tance from foreign contentions, the paths of industry, peace, and happiness; of cultivating general friendship, and of bringing collisions of interest to the umpirage of reason rather than of force. How desirable then must it be, in a government like ours, to see its citizens adopt individually the views, the interests, and the conduct which their country should pursue, divesting themselves of those passions and partialities which tend to lessen useful friendships, and to embarrass and embroil us in the calamitous scenes of Europe. Confident, fellow citizens, that you will duly estimate the importance of neutral dispositions toward the observance of neutral conduct, that you will be sensible how much it is our duty to look on the bloody arena spread before us with commiseration indeed, but with no other wish than to see it closed, I am persuaded you will cordially cherish these dispositions in all discussions among yourselves, and in all communications with your constituents; and I anticipate with satisfaction the measures of wisdom which the great interests now committed to *you* will give you an opportunity of providing, and *myself* that of approving and carrying into execution with the fidelity I owe to my country.

SPECIAL MESSAGE.—OCTOBER 21, 1803.

To the Senate and House of Representatives of the United States:—

In my communication to you of the 17th instant, I informed you that conventions had been entered into with the government of France for the cession of Louisiana to the United States. These, with the advice and consent of the Senate, having now been ratified, and my ratification exchanged for that of the first consul of France in due form, they are communicated to you for consideration in your legislative capacity. You will observe that some important conditions cannot be carried into execution, but with the aid of the legislature; and that time presses a decision on them without delay.

The ulterior provisions, also suggested in the same communication, for the occupation and government of the country, will call for early attention. Such information relative to its government, as time and distance have enabled me to obtain, will be ready to be laid before you within a few days. But, as permanent arrangements for this object may require time and deliberation, it is for your consideration whether you will not, forthwith, make such temporary provisions for the preservation, in the meanwhile, of order and tranquillity in the country, as the case may require.

SPECIAL MESSAGE.—NOVEMBER 4, 1803.

To the Senate and House of Representatives of the United States:—

By the copy now communicated of a letter from Captain Bainbridge of the Philadelphia frigate, to our consul at Gibraltar, you will learn that an act of hostility has been committed on a merchant vessel of the United States by an armed ship of the Emperor of Morocco. This conduct on the part of that power is without cause and without explanation. It is fortunate that Captain Bainbridge fell in with and took the capturing vessel and her prize; and I have the satisfaction to inform you, that about the date of this transaction such a force would be arriving in the neighborhood of Gibraltar, both from the east and the west, as leaves less to be feared for our commerce from the suddenness of the aggression.

On the 4th of September, the Constitution frigate, Captain Preble, with Mr. Lear on board, was within two days' sail of Gibraltar, where the Philadelphia would then be arrived with her prize, and such explanations would probably be instituted as the state of thing required, and as might perhaps arrest the progress of hostilities.

In the meanwhile it is for Congress to consider the provisional authorities which may be necessary to restrain the depredations of this power, should they be continued.

SPECIAL MESSAGE.—NOVEMBER 25, 1803.

To the Senate and House of Representatives of the United States:—

The treaty with the Kaskaskia Indians being ratified with the advice and consent of the Senate, it is now laid before both Houses, in their legislative capacity. It will inform them of the obligations which the United States thereby contract, and particularly that of taking the tribe under their future protection; and that the ceded country is submitted to their immediate possession and disposal.

SPECIAL MESSAGE.—DECEMBER 5, 1803.

To the Senate and House of Representatives of the United States:—

I have the satisfaction to inform you that the act of hostility mentioned in my message of the 4th of November to have been committed by a cruiser of the emperor of Morocco on a vessel of the United States, has been disavowed by the Emperor. All difficulties in consequence thereof have been amicably adjusted, and the treaty of 1786, between this country and that, has been recognized and confirmed by the Emperor, each party restoring to the other what had been detained or taken. I enclose the Emperor's orders given on this occasion.

The conduct of our officers generally, who have

had a part in these transactions, has merited entire approbation.

The temperate and correct course pursued by our consul, Mr. Simpson, the promptitude and energy of Commodore Preble, the efficacious co-operation of Captains Rodgers and Campbell of the returning squadron, the proper decision of Captain Bainbridge that a vessel which had committed an open hostility was of right to be detained for inquiry and consideration, and the general zeal of the other officers and men, are honorable facts which I make known with pleasure. And to these I add what was indeed transacted in another quarter—the gallant enterprise of Captain Rodgers in destroying, on the coast of Tripoli, a corvette of that power, of twenty-two guns.

I recommended to the consideration of Congress a just indemnification for the interest acquired by the captors of the Mishouda and Mirboha, yielded by them for the public accommodation.

SPECIAL MESSAGE.—JANUARY 16, 1804.

To the Senate and House of Representatives of the United States:—

In execution of the act of the present session of Congress for taking possession of Louisiana, as ceded to us by France, and for the temporary government thereof, Governor Claiborne, of the Mississippi territory, and General Wilkinson, were appointed

commissioners to receive possession. They proceeded with such regular troops as had been assembled at Fort Adams, from the nearest posts, and with some militia of the Mississippi territory, to New Orleans. To be prepared for anything unexpected, which might arise out of the transaction, a respectable body of militia was ordered to be in readiness, in the States of Ohio, Kentucky, and Tennessee, and a part of those of Tennessee was moved on to Natchez. No occasion, however, arose for their services. Our commissioners, on their arrival at New Orleans, found the province already delivered by the commissaries of Spain to that of France, who delivered it over to them on the twentieth day of December, as appears by their declaratory act accompanying it. Governor Claiborne being duly invested with the powers heretofore exercised by the governor and intendant of Louisiana, assumed the government on the same day, and for the maintenance of law and order, immediately issued the proclamation and address now communicated.

On this important acquisition, so favorable to the immediate interests of our western citizens, so auspicious to the peace and security of the nation in general, which adds to our country territories so extensive and fertile, and to our citizens new brethren to partake of the blessings of freedom and self-government, I offer to Congress and the country, my sincere congratulations.

SPECIAL MESSAGE.—MARCH 20, 1804.

To the Senate and House of Representatives of the United States:—

I communicate to Congress, a letter received from Captain Bainbridge, commander of the Philadelphia frigate, informing us of the wreck of that vessel on the coast of Tripoli, and that himself, his officers, and men, had fallen into the hands of the Tripolitans. This accident renders it expedient to increase our force, and enlarge our expenses in the Mediterranean beyond what the last appropriation for the naval service contemplated. I recommend, therefore, to the consideration of Congress, such an addition to that appropriation as they may think the exigency requires.

FOURTH ANNUAL MESSAGE.—NOVEMBER 8, 1804.

To the Senate and House of Representatives of the United States:—

To a people, fellow citizens, who sincerely desire the happiness and prosperity of other nations; to those who justly calculate that their own well-being is advanced by that of the nations with which they have intercourse, it will be a satisfaction to observe that the war which was lighted up in Europe a little before our last meeting has not yet extended its flames to other nations, nor been marked by the calamities which sometimes stain the footsteps of

war. The irregularities too on the ocean, which generally harass the commerce of neutral nations, have, in distant parts, disturbed ours less than on former occasions. But in the American seas they have been greater from peculiar causes; and even within our harbors and jurisdiction, infringements on the authority of the laws have been committed which have called for serious attention. The friendly conduct of the governments from whose officers and subjects these acts have proceeded, in other respects and in places more under their observation and control, gives us confidence that our representations on this subject will have been properly regarded.

While noticing the irregularities committed on the ocean by others, those on our own part should not be omitted nor left unprovided for. Complaints have been received that persons residing within the United States have taken on themselves to arm merchant vessels, and to force a commerce into certain ports and countries in defiance of the laws of those countries. That individuals should undertake to wage private war, independently of the authority of their country, cannot be permitted in a well-ordered society. Its tendency to produce aggression on the laws and rights of other nations, and to endanger the peace of our own is so obvious, that I doubt not you will adopt measures for restraining it effectually in future.

Soon after the passage of the act of the last session, authorizing the establishment of a district and port

of entry on the waters of the Mobile, we learnt that its object was misunderstood on the part of Spain. Candid explanations were immediately given, and assurances that, reserving our claims in that quarter as a subject of discussion and arrangement with Spain, no act was meditated, in the meantime, inconsistent with the peace and friendship existing between the two nations, and that conformably to these intentions would be the execution of the law. That government had, however, thought proper to suspend the ratification of the convention of 1802. But the explanations which would reach them soon after, and still more, the confirmation of them by the tenor of the instrument establishing the port and district, may reasonably be expected to replace them in the dispositions and views of the whole subject which originally dictated the conviction.

I have the satisfaction to inform you that the objections which had been urged by that government against the validity of our title to the country of Louisiana have been withdrawn, its exact limits, however, remaining still to be settled between us. And to this is to be added that, having prepared and delivered the stock created in execution of the convention of Paris, of April 30, 1803, in consideration of the cession of that country, we have received from the government of France an acknowledgment, in due form, of the fulfilment of that stipulation.

With the nations of Europe in general our friendship and intercourse are undisturbed, and from the

governments of the belligerent powers especially we continue to receive those friendly manifestations which are justly due to an honest neutrality, and to such good offices consistent with that as we have opportunities of rendering.

The activity and success of the small force employed in the Mediterranean in the early part of the present year, the reinforcement sent into that sea, and the energy of the officers having command in the several vessels, will, I trust, by the sufferings of war, reduce the barbarians of Tripoli to the desire of peace on proper terms. Great injury, however, ensues to ourselves as well as to others interested, from the distance to which prizes must be brought for adjudication, and from the impracticability of bringing hither such as are not seaworthy.

The bey of Tunis having made requisitions unauthorized by our treaty, their rejection has produced from him some expressions of discontent. But to those who expect us to calculate whether a compliance with unjust demands will not cost us less than a war, we must leave as a question of calculation for them, also, whether to retire from unjust demands will not cost them less than a war. We can do to each other very sensible injuries by war, but the mutual advantages of peace make that the best interest of both.

Peace and intercourse with the other powers on the same coast continue on the footing on which they are established by treaty.

In pursuance of the act providing for the temporary government of Louisiana, the necessary officers for the territory of Orleans were appointed in due time, to commence the exercise of their functions on the first day of October. The distance, however, of some of them, and indispensable previous arrangements, may have retarded its commencement in some of its parts; the form of government thus provided having been considered but as temporary, and open to such improvements as further information of the circumstances of our brethren there might suggest, it will of course be subject to your consideration.

In the district of Louisiana, it has been thought best to adopt the division into subordinate districts, which had been established under its former government. These being five in number, a commanding officer has been appointed to each, according to the provision of the law, and so soon as they can be at their station, that district will also be in its due state of organization; in the meantime their places are supplied by the officers before commanding there. The functions of the Governor and Judges of Indiana have commenced; the government, we presume, is proceeding in its new form. The lead mines in that district offer so rich a supply of that metal, as to merit attention. The report now communicated will inform you of their state, and of the necessity of immediate inquiry into their occupation and titles.

With the Indian tribes established within our newly-acquired limits, I have deemed it necessary to open conferences for the purpose of establishing a good understanding and neighborly relations between us. So far as we have yet learned, we have reason to believe that their dispositions are generally favorable and friendly; and with these dispositions on their part, we have in our own hands means which cannot fail us for preserving their peace and friendship. By pursuing a uniform course of justice toward them, by aiding them in all the improvements which may better their condition, and especially by establishing a commerce on terms which shall be advantageous to them and only not losing to us, and so regulated as that no incendiaries of our own or any other nation may be permitted to disturb the natural effects of our just and friendly offices, we may render ourselves so necessary to their comfort and prosperity, that the protection of our citizens from their disorderly members will become their interest and their voluntary care. Instead, therefore, of an augmentation of military force proportioned to our extension of frontier, I proposed a moderate enlargement of the capital employed in that commerce, as a more effectual, economical, and humane instrument for preserving peace and good neighborhood with them.

On this side the Mississippi an important relinquishment of native title has been received from the Delawares. That tribe, desiring to extinguish in

their people the spirit of hunting, and to convert superfluous lands into the means of improving what they retain, have ceded to us all the country between the Wabash and the Ohio, south of, and including the road from the rapids towards Vincennes, for which they are to receive annuities in animals and implements for agriculture, and in other necessaries. This acquisition is important, not only for its extent and fertility, but as fronting three hundred miles on the Ohio, and near half that on the Wabash. The produce of the settled countries descending those rivers, will no longer pass in review of the Indian frontier but in a small portion, and with the cession heretofore made with the Kaskaskias, nearly consolidates our possessions north of the Ohio, in a very respectable breadth, from Lake Erie to the Mississippi. The Piankeshaws having some claim to the country ceded by the Delawares, it has been thought best to quiet that by fair purchase also. So soon as the treaties on this subject shall have received their constitutional sanctions, they shall be laid before both houses.

The act of Congress of February 28th, 1803, for building and employing a number of gun-boats, is now in a course of execution to the extent there provided for. The obstacle to naval enterprise which vessels of this construction offer for our seaport towns; their utility toward supporting within our waters the authority of the laws; the promptness with which they will be manned by the seamen and

militia of the place the moment they are wanting; the facility of their assembling from different parts of the coast to any point where they are required in greater force than ordinary; the economy of their maintenance and preservation from decay when not in actual service; and the competence of our finances to this defensive provision, without any new burden, are considerations which will have due weight with Congress in deciding on the expediency of adding to their number from year to year, as experience shall test their utility, until all our important harbors, by these and auxiliary means, shall be insured against insult and opposition to the laws.

No circumstance has arisen since your last session which calls for any augmentation of our regular military force. Should any improvement occur in the militia system, that will be always seasonable.

Accounts of the receipts and expenditures of the last year, with estimates for the ensuing one, will as usual be laid before you.

The state of our finances continue to fulfil our expectations. Eleven millions and a half of dollars received in the course of the year ending on the 30th of September last, have enabled us, after meeting all the ordinary expenses of the year, to pay upward of $3,600,000 of the public debt, exclusive of interest. This payment, with those of the two preceding years, has extinguished upward of twelve millions of the principal, and a greater sum of interest, within that period; and by a proportional diminution of

interest, renders already sensible the effect of the growing sum yearly applicable to the discharge of the principal.

It is also ascertained that the revenue accrued during the last year, exceeds that of the preceding; and the probable receipts of the ensuing year may safely be relied on as sufficient, with the sum already in the treasury, to meet all the current demands of the year, to discharge upward of three millions and a half of the engagements incurred under the British and French conventions, and to advance in the farther redemption of the funded debts as rapidly as had been contemplated. These, fellow citizens, are the principal matters which I have thought it necessary at this time to communicate for your consideration and attention. Some others will be laid before you in the course of the session, but in the discharge of the great duties confided to you by our country, you will take a broader view of the field of legislation. Whether the great interests of agriculture, manufactures, commerce, or navigation, can, within the pale of your constitutional powers, be aided in any of their relations; whether laws are provided in all cases where they are wanting; whether those provided are exactly what they should be; whether any abuses take place in their administration, or in that of the public revenues; whether the organization of the public agents or of the public force is perfect in all its parts; in fine, whether anything can be done to advance the general

good, are questions within the limits of your functions which will necessarily occupy your attention. In these and other matters which you in your wisdom may propose for the good of our country, you may count with assurance on my hearty co-operation and faithful execution.

SECOND INAUGURAL ADDRESS.—MARCH 4, 1805.

Proceeding, fellow citizens, to that qualification which the constitution requires, before my entrance on the charge again conferred upon me, it is my duty to express the deep sense I entertain of this new proof of confidence from my fellow citizens at large, and the zeal with which it inspires me, so to conduct myself as may best satisfy their just expectations.

On taking this station on a former occasion, I declared the principles on which I believed it my duty to administer the affairs of our commonwealth. My conscience tells me that I have, on every occasion, acted up to that declaration, according to its obvious import, and to the understanding of every candid mind.

In the transaction of your foreign affairs, we have endeavored to cultivate the friendship of all nations, and especially of those with which we have the most important relations. We have done them justice on all occasions, favored where favor was lawful, and cherished mutual interests and intercourse on fair and equal terms. We are firmly convinced,

and we act on that conviction, that with nations, as with individuals, our interests soundly calculated, will ever be found inseparable from our moral duties; and history bears witness to the fact, that a just nation is taken on its word, when recourse is had to armaments and wars to bridle others.

At home, fellow citizens, you best know whether we have done well or ill. The suppression of unnecessary offices, of useless establishments and expenses, enabled us to discontinue our internal taxes. These covering our land with officers, and opening our doors to their intrusions, had already begun that process of domiciliary vexation which, once entered, is scarcely to be restrained from reaching successively every article of produce and property. If among these taxes some minor ones fell which had not been inconvenient, it was because their amount would not have paid the officers who collected them, and because, if they had any merit, the state authorities might adopt them, instead of others less approved.

The remaining revenue on the consumption of foreign articles, is paid cheerfully by those who can afford to add foreign luxuries to domestic comforts, being collected on our seaboards and frontiers only, and incorporated with the transactions of our mercantile citizens, it may be the pleasure and pride of an American to ask, what farmer, what mechanic, what laborer, ever sees a tax-gatherer of the United States? These contributions enable us to support

the current expenses of the government, to fulfil contracts with foreign nations, to extinguish the native right of soil within our limits, to extend those limits, and to apply such a surplus to our public debts, as places at a short day their final redemption, and that redemption once effected, the revenue thereby liberated may, by a just repartition among the states, and a corresponding amendment of the constitution, be applied, *in time of peace*, to rivers, canals, roads, arts, manufactures, education, and other great objects within each state. *In time of war*, if injustice, by ourselves or others, must sometimes produce war, increased as the same revenue will be increased by population and consumption, and aided by other resources reserved for that crisis, it may meet within the year all the expenses of the year, without encroaching on the rights of future generations, by burdening them with the debts of the past. War will then be but a suspension of useful works, and a return to a state of peace, a return to the progress of improvement.

I have said, fellow citizens, that the income reserved had enabled us to extend our limits; but that extension may possibly pay for itself before we are called on, and in the meantime, may keep down the accruing interest; in all events, it will repay the advances we have made. I know that the acquisition of Louisiana has been disapproved by some, from a candid apprehension that the enlargement of our territory would endanger its union. But who

can limit the extent to which the federative principle may operate effectively? The larger our association, the less will it be shaken by local passions; and in any view, is it not better that the opposite bank of the Mississippi should be settled by our own brethren and children, than by strangers of another family? With which shall we be most likely to live in harmony and friendly intercourse?

In matters of religion, I have considered that its free exercise is placed by the constitution independent of the powers of the general government. I have therefore undertaken, on no occasion, to prescribe the religious exercises suited to it; but have left them, as the constitution found them, under the direction and discipline of State or Church authorities acknowledged by the several religious societies.

The aboriginal inhabitants of these countries I have regarded with the commiseration their history inspires. Endowed with the faculties and the rights of men, breathing an ardent love of liberty and independence, and occupying a country which left them no desire but to be undisturbed, the stream of overflowing population from other regions directed itself on these shores; without power to divert, or habits to contend against, they have been overwhelmed by the current, or driven before it; now reduced within limits too narrow for the hunter's state, humanity enjoins us to teach them agriculture and the domestic arts; to encourage them to that

industry which alone can enable them to maintain their place in existence, and to prepare them in time for that state of society, which to bodily comforts adds the improvement of the mind and morals. We have therefore liberally furnished them with the implements of husbandry and household use; we have placed among them instructors in the arts of first necessity; and they are covered with the ægis of the law against aggressors from among ourselves.

But the endeavors to enlighten them on the fate which awaits their present course of life, to induce them to exercise their reason, follow its dictates, and change their pursuits with the change of circumstances, have powerful obstacles to encounter; they are combated by the habits of their bodies, prejudice of their minds, ignorance, pride, and the influence of interested and crafty individuals among them, who feel themselves something in the present order of things, and fear to become nothing in any other. These persons inculcate a sanctimonious reverence for the customs of their ancestors; that whatsoever they did, must be done through all time; that reason is a false guide, and to advance under its counsel, in their physical, moral, or political condition, is perilous innovation; that their duty is to remain as their Creator made them, ignorance being safety, and knowledge full of danger; in short, my friends, among them is seen the action and counteraction of good sense and bigotry; they, too, have their anti-philosophers, who find an inter-

est in keeping things in their present state, who dread reformation, and exert all their faculties to maintain the ascendency of habit over the duty of improving our reason, and obeying its mandates.

In giving these outlines, I do not mean, fellow citizens, to arrogate to myself the merit of the measures; that is due, in the first place, to the reflecting character of our citizens at large, who, by the weight of public opinion, influence and strengthen the public measures; it is due to the sound discretion with which they select from among themselves those to whom they confide the legislative duties; it is due to the zeal and wisdom of the characters thus selected, who lay the foundations of public happiness in wholesome laws, the execution of which alone remains for others; and it is due to the able and faithful auxiliaries, whose patriotism has associated with me in the executive functions.

During this course of administration, and in order to disturb it, the artillery of the press has been levelled against us, charged with whatsoever its licentiousness could devise or dare. These abuses of an institution so important to freedom and science, are deeply to be regretted, inasmuch as they tend to lessen its usefulness, and to sap its safety; they might, indeed, have been corrected by the wholesome punishments reserved and provided by the laws of the several States against falsehood and defamation; but public duties more urgent press on the time of public servants, and the offenders have therefore

been left to find their punishment in the public indignation.

Nor was it uninteresting to the world, that an experiment should be fairly and fully made, whether freedom of discussion, unaided by power, is not sufficient for the propagation and protection of truth—whether a government, conducting itself in the true spirit of its constitution, with zeal and purity, and doing no act which it would be unwilling the whole world should witness, can be written down by falsehood and defamation. The experiment has been tried; you have witnessed the scene; our fellow citizens have looked on, cool and collected; they saw the latent source from which these outrages proceeded; they gathered around their public functionaries, and when the constitution called them to the decision by suffrage, they pronounced their verdict, honorable to those who had served them, and consolatory to the friend of man, who believes he may be intrusted with his own affairs.

No inference is here intended, that the laws, provided by the State against false and defamatory publications, should not be enforced; he who has time, renders a service to public morals and public tranquillity, in reforming these abuses by the salutary coercions of the law; but the experiment is noted, to prove that, since truth and reason have maintained their ground against false opinions in league with false facts, the press, confined to truth,

needs no other legal restrain; the public judgment will correct false reasonings and opinions, on a full hearing of all parties; and no other definite line can be drawn between the inestimable liberty of the press and its demoralizing licentiousness. If there be still improprieties which this rule would not restrain, its supplement must be sought in the censorship of public opinion.

Contemplating the union of sentiment now manifested so generally, as auguring harmony and happiness to our future course, I offer to our country sincere congratulations. With those, too, not yet rallied to the same point, the disposition to do so is gaining strength; facts are piercing through the veil drawn over them; and our doubting brethren will at length see, that the mass of their fellow citizens, with whom they cannot yet resolve to act, as to principles and measures, think as they think, and desire what they desire; that our wish, as well as theirs, is, that the public efforts may be directed honestly to the public good, that peace be cultivated, civil and religious liberty unassailed, law and order preserved, equality of rights maintained, and that state of property, equal or unequal, which results to every man from his own industry, or that of his fathers. When satisfied of these views, it is not in human nature that they should not approve and support them; in the meantime, let us cherish them with patient affection; let us do them justice, and more than justice, in all competitions of interest;

and we need not doubt that truth, reason, and their own interests, will at length prevail, will gather them into the fold of their country, and will complete their entire union of opinion, which gives to a nation the blessing of harmony, and the benefit of all its strength.

I shall now enter on the duties to which my fellow citizens have again called me, and shall proceed in the spirit of those principles which they have approved. I fear not that any motives of interest may lead me astray; I am sensible of no passion which could seduce me knowingly from the path of justice; but the weakness of human nature, and the limits of my own understanding, will produce errors of judgment sometimes injurious to your interests. I shall need, therefore, all the indulgence I have heretofore experienced—the want of it will certainly not lessen with increasing years. I shall need, too, the favor of that Being in whose hands we are, who led our forefathers, as Israel of old, from their native land, and planted them in a country flowing with all the necessaries and comforts of life; who has covered our infancy with his providence, and our riper years with his wisdom and power; and to whose goodness I ask you to join with me in supplications, that he will so enlighten the minds of your servants, guide their councils, and prosper their measures, that whatsoever they do, shall result in your good, and shall secure to you the peace, friendship, and approbation of all nations.

FIFTH ANNUAL MESSAGE.—DECEMBER 3, 1805.

To the Senate and House of Representatives of the United States:—

At a moment when the nations of Europe are in commotion and arming against each other, and when those with whom we have principal intercourse are engaged in the general contest, and when the countenance of some of them toward our peaceable country threatens that even that may not be unaffected by what is passing on the general theatre, a meeting of the representatives of the nation in both houses of Congress has become more than usually desirable. Coming from every section of our country, they bring with them the sentiments and the information of the whole, and will be enabled to give a direction to the public affairs which the will and wisdom of the whole will approve and support.

In taking a view of the state of our country, we in the first place notice the late affliction of two of our cities under the fatal fever which in latter times has occasionally visited our shores. Providence in his goodness gave it an early termination on this occasion, and lessened the number of victims which have usually fallen before it. In the course of the several visitations by this disease it has appeared that it is strictly local; incident to the cities and on the tide waters only; incommunicable in the country, either by persons under the disease or by goods carried from diseased places; that its access is with the

autumn, and that it disappears with the early frosts. These restrictions within narrow limits of time and space give security even to our maritime cities during three-fourths of the year, and to the country always. Although from these facts it appears unnecessary, yet to satisfy the fears of foreign nations, and cautions on their part not to be complained of in a danger whose limits are yet unknown to them, I have strictly enjoined on the officers at the head of the customs to certify with exact truth for every vessel sailing for a foreign port, the state of health respecting this fever which prevails at the place from which she sails. Under every motive from character and duty to certify the truth, I have no doubt they have faithfully executed this injunction. Much real injury has, however, been sustained from a propensity to identify with this epidemic, and to call by the same name, fevers of very different kinds, which have been known at all times and in all countries, and never have been placed among those deemed contagious. As we advance in our knowledge of this disease, as facts develop the sources from which individuals receive it, the state authorities charged with the care of the public health, and Congress with that of the general commerce, will become able to regulate with effect their respective functions in these departments. The burden of quarantines is felt at home as well as abroad; their efficacy merits examination. Although the health laws of the States should be found to need no present

revisal by Congress, yet commerce claims that their attention be ever awake to them.

Since our last meeting the aspect of our foreign relations has considerably changed. Our coasts have been infested and our harbors watched by private armed vessels, some of them without commissions, some with illegal commissions, others with those of legal form but committing piratical acts beyond the authority of their commissions. They have captured in the very entrance of our harbors, as well as on the high seas, not only the vessels of our friends coming to trade with us, but our own also. They have carried them off under pretence of legal adjudication, but not daring to approach a court of justice, they have plundered and sunk them by the way, or in obscure places where no evidence could arise against them; maltreated the crews, and abandoned them in boats in the open sea or on desert shores without food or covering. These enormities appearing to be unreached by any control of their sovereigns, I found it necessary to equip a force to cruise within our own seas, to arrest all vessels of these descriptions found hovering on our coast within the limits of the Gulf Stream, and to bring the offenders in for trial as pirates.

The same system of hovering on our coasts and harbors under color of seeking enemies, has been also carried on by public armed ships, to the great annoyance and oppression of our commerce. New principles, too, have been interloped into the law

of nations, founded neither in justice nor the usage or acknowledgment of nations. According to these, a belligerent takes to himself a commerce with its own enemy which it denies to a neutral, on the ground of its aiding that enemy in the war. But reason revolts at such an inconsistency, and the neutral having equal right with the belligerent to decide the question, the interest of our constituents and the duty of maintaining the authority of reason, the only umpire between just nations, impose on us the obligation of providing an effectual and determined opposition to a doctrine so injurious to the rights of peaceable nations. Indeed, the confidence we ought to have in the justice of others, still countenances the hope that a sounder view of those rights will of itself induce from every belligerent a more correct observance of them.

With Spain our negotiations for a settlement of differences have not had a satisfactory issue. Spoliations during the former war, for which she had formally acknowledged herself responsible, have been refused to be compensated, but on conditions affecting other claims in nowise connected with them. Yet the same practices are renewed in the present war, and are already of great amount. On the Mobile, our commerce passing through that river continues to be obstructed by arbitrary duties and vexatious searches. Propositions for adjusting amicably the boundaries of Louisiana have not been acceded to. While, however, the right is unsettled,

we have avoided changing the state of things by taking new posts or strengthening ourselves in the disputed territories, in the hope that the other power would not, by contrary conduct, oblige us to meet their example, and endanger conflicts of authority the issue of which may not be easily controlled. But in this hope we have now reason to lessen our confidence. Inroads have been recently made into the territories of Orleans and the Mississippi, our citizens have been seized and their property plundered in the very parts of the former which had been actually delivered up by Spain, and this by the regular officers and soldiers of that government. I have therefore found it necessary at length to give orders to our troops on that frontier to be in readiness to protect our citizens, and to repel by arms any similar aggression in future. Other details, necessary for your full information of the state of things between this country and that shall be the subject of another communication.

In reviewing these injuries from some of the belligerent powers, the moderation, the firmness, and the wisdom of the legislature will be all called into action. We ought still to hope that time and a more correct estimate of interest, as well as of character, will produce the justice we are bound to expect. But should any nation deceive itself by false calculations, and disappoint that expectation, we must join in the unprofitable contest of trying which party can do the other the most harm. Some of

these injuries may perhaps admit a peaceable remedy. Where that is competent it is always the most desirable. But some of them are of a nature to be met by force only, and all of them may lead to it. I cannot, therefore, but recommend such preparations as circumstances call for. The first object is to place our seaport towns out of the danger of insult. Measures have been already taken for furnishing them with heavy cannon for the service of such land batteries as may make a part of their defence against armed vessels approaching them. In aid of these it is desirable that we should have a competent number of gun-boats; and the number, to be competent, must be considerable. If immediately begun, they may be in readiness for service at the opening of the next season. Whether it will be necessary to augment our land forces will be decided by occurrences probably in the course of your session. In the meantime, you will consider whether it would not be expedient, for a state of peace as well as of war, so to organize or class the militia as would enable us, on a sudden emergency, to call for the services of the younger portions, unencumbered with the old and those having families. Upward of three hundred thousand able-bodied men, between the ages of eighteen and twenty-six years, which the last census shows we may now count within our limits, will furnish a competent number for offence or defence in any point where they may be wanted, and will give time for raising regular forces after

the necessity of them shall become certain; and the reducing to the early period of life all its active service cannot but be desirable to our younger citizens, of the present as well as future times, inasmuch as it engages to them in more advanced age a quiet and undisturbed repose in the bosom of their families. I cannot, then, but earnestly recommend to your early consideration the expediency of so modifying our militia system as, by a separation of the more active part from that which is less so, we may draw from it, when necessary, an efficient corps fit for real and active service, and to be called to it in regular rotation.

Considerable provision has been made, under former authorities from Congress, of materials for the construction of ships of war of seventy-four guns. These materials are on hand, subject to the further will of the legislature.

An immediate prohibition of the exportation of arms and ammunition is also submitted to your determination.

Turning from these unpleasant views of violence and wrong, I congratulate you on the liberation of our fellow citizens who were stranded on the coast of Tripoli and made prisoners of war. In a government bottomed on the will of all, the life and liberty of every individual citizen become interesting to all. In the treaty, therefore, which has concluded our warfare with that State, an article for the ransom of our citizens has been agreed to. An operation

by land, by a small band of our countrymen, and others—engaged for the occasion, in conjunction with the troops of the ex-bashaw of that country, gallantly conducted by our late consul Eaton, and their successful enterprise on the city of Derne, contributed, doubtless, to the impression which produced peace; and the conclusion of this prevented opportunities of which the officers and men of our squadron destined for Tripoli would have availed themselves, to emulate the acts of valor exhibited by their brethren in the attack of the last year. Reflecting with high satisfaction on the distinguished bravery displayed whenever occasion permitted in the Mediterranean service, I think it would be a useful encouragement, as well as a just reward, to make an opening for some present promotion by enlarging our peace establishment of captains and lieutenants.

With Tunis some misunderstandings have arisen, not yet sufficiently explained, but friendly discussions with their Ambassador recently arrived, and a mutual disposition to do whatever is just and reasonable, cannot fail of dissipating these; so that we may consider our peace on that coast, generally, to be on as sound a footing as it has been at any preceding time. Still it will not be expedient to withdraw, immediately, the whole of our force from that sea.

The law for providing a naval peace establishment fixes the number of frigates which shall be kept in

constant service in time of peace, and prescribes that they shall not be manned by more than two-thirds of their complement of seamen and ordinary seamen. Whether a frigate may be trusted to two-thirds only of her proper complement of men must depend on the nature of the service on which she is ordered; that may sometimes, for her safety, as well as to insure her object, require her fullest complement. In adverting to this subject, Congress will perhaps consider whether the best limitation on the executive discretion in this case would not be by the number of seamen which may be employed in the whole service, rather than by the number of vessels. Occasions oftener arise for the employment of small than of large vessels, and it would lessen risk as well as expense to be authorized to employ them of preference. The limitation suggested by the number of seamen would admit a selection of vessels best adapted to the service.

Our Indian neighbors are advancing, many of them with spirit and others beginning to engage, in the pursuits of agriculture and household manufacture. They are becoming sensible that the earth yields subsistence with less labor and more certainty than the forest, and find it their interest, from time to time, to dispose of parts of their surplus and waste lands for the means of improving those they occupy, and of subsisting their families while they are preparing their farms. Since your last session, the northern tribes have sold to us the lands be-

tween the Connecticut reserve and the former Indian boundary; and those on the Ohio, from the same boundary to the rapids, and for a considerable depth inland. The Chickasaws and Cherokees have sold us the country between and adjacent to the two districts of Tennessee, and the Creeks, the residue of their lands in the fork of Ocmulgee, up to the Ulcofauhatche. The three former purchases are important, inasmuch as they consolidate disjointed parts of our settled country, and render their intercourse secure; and the second particularly so, as with the small point on the river which we expect is by this time ceded by the Piankeshaws, it completes our possession of the whole of both banks of the Ohio, from its source to near its mouth, and the navigation of that river is thereby rendered forever safe to our citizens settled and settling on its extensive waters. The purchase from the Creeks too has been for some time particularly, interesting to the State of Georgia.

The several treaties which have been mentioned will be submitted to both houses of Congress for the exercise of their respective functions.

Deputations now on their way to the seat of government, from various nations of Indians inhabiting the Missouri and other parts beyond the Mississippi, come charged with the assurances of their satisfaction with the new relations in which they are placed with us, of their disposition to cultivate our peace and friendship, and their desire to enter into commercial

intercourse with us. A statement of our progress in exploring the principal rivers of that country, and of the information respecting them hitherto obtained, will be communicated so soon as we shall receive some further relations which we have reason shortly to expect.

The receipts at the treasury during the year ending the 30th day of September last, have exceeded the sum of thirteen millions of dollars, which, with not quite five millions in the treasury at the beginning of the year, have enabled us, after meeting other demands, to pay nearly two millions of the debt contracted under the British treaty and convention, upward of four millions of principal of the public debt, and four millions of interest. These payments, with those which had been made in three years and a half preceding, have extinguished of the funded debt nearly eighteen millions of principal. Congress, by their act of November 10th, 1803, authorized us to borrow one million seven hundred and fifty thousand dollars, toward meeting the claims of our citizens assumed by the convention with France. We have not, however, made use of this authority, because the sum of four millions and a half, which remained in the treasury on the same 30th day of September last, with the receipts which we may calculate on for the ensuing year, besides paying the annual sum of eight millions of dollars appropriated to the funded debts, and meeting all the current demands which may be expected, will

enable us to pay the whole sum of three millions seven hundred and fifty thousand dollars assumed by the French convention, and still leaves a surplus of nearly a million of dollars at our free disposal. Should you concur in the provisions of arms and armed vessels recommended by the circumstances of the times, this surplus will furnish the means of doing so.

On this first occasion of addressing Congress, since, by the choice of my constituents, I have entered on a second term of administration, I embrace the opportunity to give this public assurance, that I will exert my best endeavors to administer faithfully the executive department, and will zealously co-operate with you in every measure which may tend to secure the liberty, property, and personal safety of our fellow citizens, and to consolidate the republican forms and principles of our government.

In the course of your session you shall receive all the aid which I can give for the despatch of the public business, and all the information necessary for your deliberations, of which the interests of our own country and the confidence reposed in us by others will admit a communication.

CONFIDENTIAL MESSAGE ON SPANISH SPOLIATIONS.[1]

December 6, 1805.

To the Senate and House of Representatives of the United States:—

The depredations which had been committed on the commerce of the United States during a preceding war, by persons under the authority of Spain, are sufficiently known to all. These made it a duty

[1] This message was not included in the Congressional Edition of 1853. The words enclosed in brackets were crossed out in the original manuscript. The message was sent to Congress with the following letter:

"Sir,—In order to give to Congress the details necessary for their full information of the state of things between Spain and the United States I send them the communication and documents now enclosed. Although stated to be confidential, that term is not meant to be extended to all the documents; the greater part of which are proper for the public eye. It is applied only to the message itself, and to the letters from our own and foreign ministers, which, if disclosed, might throw additional difficulties in the way of accommodation. These alone, therefore, are delivered to the legislature in confidence that they will be kept secret.

"December 6, 1805."

Here follows a document written by Jefferson entitled "Notes for Message."

"File December 2, 1805.

"As we omit in the second message to enumerate the aggressions of Spain and refer for them to the documents, we must furnish the documents for every Act, particularly,

"1. The capture of the Huntress.

"2. The carrying our gun-boats into Algerinas.

"5–3. The late depredations on our commerce in Europe. Extracts from Pinckney's letters.

"5–4. Oppressions on our commerce at Mobile.

"5–5. Delays in the evacuation of New Orleans.

"5–6. Dissemination of rumors of the probable restoration of Louisiana to Spain.

"7. The new post taken on this side Sabine.

"8. The reinforcement of Nacogdoches.

to require from that government indemnifications for our injured citizens. A convention was accord

"9. The robbery near Apelousa.

"10. That at Bayou Pierre.

"11. The Pattroles established on this side Sabine.

"5–12. The aggression on the Mississippi territory in the case of the Kempers.

"5–13. The subsequent one in the case of Flanagan and his wife.

"5–14. The negotiation at Madrid.

"No. 1. 2. from Navy department.

"7, 8. 9. 10. 11. from the War office.

"4. 5. 6. from the offices both of War and State.

"3. 12. 13. 14. from the office of State.

(This is endorsed): "President's list of documents for 1st session of Congress of 1805."

The following resolutions were submitted to the Cabinet by Jefferson:

"For consideration and correction. Th. J.

"1. Resolved, that no armed men, not being citizens of the United States ought to be permitted to enter or remain, nor any authority to be exercised but under the laws of the United States, within the former colony or province of Louisiana in the extent in which it was in the hands of Spain.

"2. *Resolved, that as to the residue of the said 'former colony or province of Louisiana, in the extent it had when France possessed it,' a peaceable adjustment of that extent is most reasonable and desirable, so far as it can be effected consistently with the honor of the United States.*

"3. Resolved, that pending measures for such peaceable adjustment, neither party ought to take new posts therein, nor to strengthen those they held before the 1st day of October, 1800, and that any proceeding to the contrary on the part of Spain ought to be opposed by force, and by taking possession of such posts as may be necessary to maintain the rights of the United States.

"4. Resolved, that the subjects of Spain still on the Mississippi and its waters ought to be allowed an innocent passage, free from all imposts, along that part of the river which passes through the territory of the United States. And the citizens of the United States on the Mobile and its waters ought to be allowed an innocent passage, free from all imposts, along that part of the river below them which passes through the territory still held by Spain, but claimed by both parties;

"Or that imposts should be levied for and by the United States on the navigation of the Mississippi by Spanish subjects, countervailing

ingly entered into between the Ministers of the United States at Madrid and the Minister of that government for foreign affairs, by which it was agreed that spoliations committed by Spanish subjects and carried into ports of Spain should be paid for by that nation; and that those committed by French subjects, and carried into Spanish ports should remain for further discussion. Before this Convention was returned to Spain with our ratification, the transfer of Louisiana by France to the United States took place, an event as unexpected as disagreeable to Spain. From that moment she seemed to change her conduct and dispositions towards us. It was first manifested by her protest

those which may be levied for and by Spain on the navigation of the Mobile by citizens of the United States.

"And that the navigation of the Mississippi by Spanish subjects should be prohibited whensoever that of the Mobile by citizens of the United States shall be prohibited.

"5. Resolved, that in support of these resolutions, and of the consequences which may proceed from them, the citizens of the United States, by their Senate and Representatives in Congress assembled, do pledge their lives and fortunes; and that the execution of these resolutions be vested with the President of the United States.

"6. Resolved, that for carrying these resolutions into effect, whether amicably or by the use of force, the President be authorized to apply any moneys in the Treasury of the United States not otherwise appropriated.

"7. Resolved, that the President of the United States ought to be authorized by law to employ the armed vessels of the United States which may be in commission, for restraining the irregularities and oppressions of our commerce, other than those which amount to piracy, by privateers cruising within the Gulf Stream, in the gulf itself, or among the islands bordering on it, and that a bill be brought in for that purpose."

against the right of France to alienate Louisiana to us, which however was soon retracted, and the right confirmed. Then high offence was manifested at the act of Congress establishing a collection district on the Mobile, although by an authentic declaration immediately made, it was expressly confined to our acknowledged limits. And she now refused to ratify the Convention signed by her own Minister under the eye of his Sovereign, unless we would relinquish all consent to alterations of its terms which would have affected our claims against her for the spoliations by the French subjects carried into Spanish ports.

To obtain justice, as well as to restore friendship, I thought a special mission advisable, and accordingly appointed James Monroe, Minister Extraordinary and Plenipotentiary, to repair to Madrid, and in conjunction with our Minister resident there, to endeavor to procure a ratification of the former Convention, and to come to an understanding with Spain as to the boundaries of Louisiana. It appeared at once that her policy was to reserve herself for events, and in the meantime [to avoid all explanations and engagements] to keep our differences in an undetermined state. This will be evident from the papers now communicated to you. After [yielding to their delays until their object could no longer be doubted] nearly five months of fruitless endeavor to bring them to some definite [accommodation] and satisfactory result our Ministers ended the conferences,

without having been able to obtain indemnity for spoliations of any description, or any satisfaction as to the boundaries of Louisiana, other than a declaration [on their part] that we had no rights Eastward of the Iberville, and that our line to the west was one which would have left us but a string of land on that bank of the river Mississippi. Our injured citizens were thus left without any prospect of retribution from the wrong-doer; and as to the boundary each party was to take its own course. That which they have chosen to pursue will appear from the documents now communicated. They authorize the inference that it is their intention to advance on our possessions until they shall be repressed by an opposing force. Considering that Congress alone is constitutionally invested with the power of changing our condition from peace to war, I have thought it my duty to await their authority for using force in any degree which could be avoided. I have barely instructed the officers stationed in the neighborhood of the aggressions to protect our citizens from violence, to patrol within the borders actually delivered to us, and not to go out of them but when necessary to repel an inroad, or to rescue a citizen or his property. And the Spanish officers remaining at New Orleans are required to depart without further delay. It ought to be noted here that since the late change in the state of affairs in Europe, Spain has ordered her cruisers and courts to respect our treaty with her.

The conduct of France, and the part she may take in the misunderstandings between the United States and Spain, are too important to be unconsidered. She was prompt and decided in her declarations that our demands on Spain for French spoliations carried into Spanish ports, were included in the settlement between the United States and France. She took at once the ground that she had acquired no right from Spain and had meant to deliver us none, Eastward of the Iberville: her silence as to the Western boundary leaving us to infer her opinion [in favor of our claims to the Rio Bravo: and we know that her commissary had orders to require possession to that river] might be against Spain in that quarter. Whatever direction she might mean to give to these differences, it does not appear that [is sufficient reason to believe I am satisfied] she has [not] contemplated their proceeding to actual rupture, or that, as the date of our last advices from Paris, her government had any suspicion of a hostile attitude Spain had taken here. On the contrary we [are without a doubt] have reason to believe that she was disposed to effect a settlement on a plan analogous to what our ministers had proposed, and so comprehensive as to remove as far as possible the grounds of future [misunderstanding] collision and controversy on the Eastern as well as Western side of the Mississippi.

The present crisis in Europe is favorable for pressing such a settlement: and not a moment should be lost in availing ourselves of it. Should it pass unim-

proved, our situation would become much more difficult. Formal war is not necessary. It is not probable it will follow. But the protection of our citizens, the spirit and honor of our country, require that force should be interposed to a certain degree. It will probably contribute to advance the object of peace.

But the course to be pursued will require the command of means which it belongs to Congress exclusively to yield or to deny. To them I communicate every fact material for their information, and the documents necessary to enable them to judge for themselves. To their wisdom then I look for the course I am to take, and will pursue with sincere zeal that which they shall approve.

SPECIAL MESSAGE.—JANUARY 13, 1806.

To the Senate and House of Representatives of the United States:—

I lay before Congress the application of Hamet Caramalli, elder brother of the reigning bashaw of Tripoli, soliciting from the United States attention to his services and sufferings in the late war against that State. And in order to possess them of the ground on which that application stands, the facts shall be stated according to the views and information of the executive.

During the war with Tripoli, it was suggested that Hamet Caramalli, elder brother of the reigning

bashaw, and driven by him from his throne, meditated the recovery of his inheritance, and that a concert in action with us was desirable to him. We considered that concerted operations by those who have a common enemy were entirely justifiable, and might produce effects favorable to both, without binding either to guaranty the objects of the other. But the distance of the scene, the difficulties of communication, and the uncertainty of our information, inducing the less confidence in the measures, it was committed to our agents as one which might be resorted to if it promised to promote our success.

Mr. Eaton, however (our late consul), on his return from the Mediterranean, possessing a personal knowledge of the scene, and having confidence in the effect of a joint operation, we authorized Commodore Barron, then proceeding with his squadron, to enter into an understanding with Hamet if he should deem it useful; and as it was represented that he would need some aids of arms, and ammunition, and even of money, he was authorized to furnish them to a moderate extent, according to the prospect of utility to be expected from it. In order to avail him of the advantages of Mr. Eaton's knowledge of circumstances, an occasional employment was provided for the latter as an agent for the navy in that sea. Our expectation was, that an intercourse should be kept up between the ex-bashaw and the commodore, that while the former moved on by land, our squadron should proceed with equal pace so as to arrive at

their destination together, and to attack the common enemy by land and sea at the same time. The instructions of June 6th, to Commodore Barron, show that a co-operation only was intended, and by no means a union of our object with the fortune of the ex-bashaw, and the commodore's letters of March 22d and May 19th proved that he had the most correct idea of our intentions. His verbal instructions, indeed, to Mr. Eaton and Captain Hull, if the expressions are accurately committed to writing by those gentlemen, do not limit the extent of his co-operation as rigorously as he probably intended; but it is certain, from the ex-bashaw's letter of January 3d, written when he was proceeding to join Mr. Eaton, and in which he says, "Your operations should be carried on by sea, mine by land," that he left the position in which he was with a proper idea of the nature of the co-operation. If Mr. Eaton's subsequent convention should appear to bring forward other objects, his letter of April 29th and May 1st views this convention but as provisional, the second article, as he expressly states, guarding it against any ill effect; and his letter of June 30th confirms this construction.

In the event it was found that after placing the ex-bashaw in possession of Derne, one of the most important cities and provinces of the country, where he had resided himself as governor, he was totally unable to command any resources, or to bear any part in the co-operation with us. This hope was

then at an end, and we certainly had never contemplated, nor were we prepared to land an army of our own, or to raise, pay, or subsist, an army of Arabs, to march from Derne to Tripoli and to carry on a land war at such a distance from our resources. Our means and our authority were merely naval, and that such were the expectations of Hamet, his letter of June 29th is an unexpected acknowledgment. While, therefore, an impression from the capture of Derne might still operate at Tripoli, and an attack on that place from our squadron was daily expected, Colonel Lear thought it the best moment to listen to overtures of peace then made by the bashaw. He did so, and while urging provisions for the United States, he paid attention also to the interests of Hamet; but was able to effect nothing more than to engage the restitution of his family, and even the persevering in this demand suspended for some time the conclusion of the treaty.

In operations at such a distance, it becomes necessary to leave much to the discretion of the agents employed, but events may still turn up beyond the limits of that discretion. Unable in such case to consult his government, a zealous citizen will act as he believes that would direct him were it apprized of the circumstances, and will take on himself the responsibility. In all these cases the purity and patriotism of the motives should shield the agent from blame, and even secure the sanction where the error is not too injurious. Should it be thought by

any that the verbal instructions said to have been given by Commodore Barron to Mr. Eaton amount to a stipulation that the United States should place Hamet Caramalli on the throne of Tripoli, a stipulation so entirely unauthorized, so far beyond our views, and so onerous, could not be sanctioned by our government; or should Hamet Caramalli, contrary to the evidence of his letters of January 3d and June 29th, be thought to have left the position which he now seems to regret, under a mistaken expectation that we were at all events to place him on his throne, on an appeal to the liberality of the nation, something equivalent to the replacing him in his former situation, might be worthy its consideration.

A nation, by establishing a character of liberality and magnanimity, gains in the friendship and respect of others more than the worth of mere money. This appeal is now made by Hamet Caramalli to the United States. The ground he has taken being different not only from our views but from those expressed by himself on former occasions, Mr. Eaton was desired to state whether any verbal communications passed from him to Hamet, which had varied what we saw in writing. His answer of December 5th is herewith transmitted, and has rendered it still more necessary, that in presenting to the legislature the application of Hamet, I should present them at the same time an exact statement of the views and proceedings of the executive through this whole business, that they may clearly understand the

ground on which we are placed. It is accompanied by all the papers which bear any relation to the principles of the co-operation, and which can inform their judgment in deciding on the application of Hamet Caramalli.

SPECIAL MESSAGE.—JANUARY 17, 1806.

To the Senate and House of Representatives of the United States:—

In my message to both houses of Congress at the opening of their present session, I submitted to their attention, among other subjects, the oppression of our commerce and navigation by the irregular practices of armed vessels, public and private, and by the introduction of new principles, derogatory of the rights of neutrals, and unacknowledged by the usage of nations.

The memorials of several bodies of merchants of the United States are now communicated, and will develop these principles and practices which are producing the most ruinous effects on our lawful commerce and navigation.

The rights of a neutral to carry on a commercial intercourse with every part of the dominions of a belligerent, permitted by the laws of the country (with the exception of blockaded ports and contraband of war), was believed to have been decided between Great Britain and the United States by the sentence of the commissioners mutually appointed

to decide on that and other questions of difference between the two nations, and by the actual payment of damages awarded by them against Great Britain for the infractions of that right. When, therefore, it was perceived that the same principle was revived with others more novel, and extending the injury, instructions were given to the Minister Plenipotentiary of the United States at the court of London, and remonstrances duly made by him on this subject, as will appear by documents transmitted herewith. These were followed by a partial and temporary suspension only, without any disavowal of the principle. He has therefore been instructed to urge this subject anew, to bring it more fully to the bar of reason, and to insist on the rights too evident and too important to be surrendered. In the meantime, the evil is proceeding under adjudications founded on the principle which is denied. Under these circumstances the subject presents itself for the consideration of Congress.

On the impressment of our seamen our remonstrances have never been intermitted. A hope existed at one moment of an arrangement which might have been submitted to, but it soon passed away, and the practice, though relaxed at times in the distant seas, has been constantly pursued in those in our neighborhood. The grounds on which the reclamations on this subject have been urged, will appear in an extract from instructions to our minister at London now communicated.

J. Marshall

SPECIAL MESSAGE.—FEBRUARY 3, 1806.

To the Senate and House of Representatives of the United States:–

A letter has been received from the Governor of South Carolina, covering an act of the legislature of that state, ceding to the United States various forts and fortifications, and sites for the erection of forts in that state, on the conditions therein expressed. This letter and the act it covered are now communicated to Congress.

I am not informed whether the positions ceded are the best which can be taken for securing their respective objects. No doubt is entertained that the legislature deemed them such. The river of Beaufort particularly, said to be accessible to ships of very large size, and capable of yielding them a protection which they cannot find elsewhere, but very far to the north, is, from these circumstances, so interesting to the Union in general, as to merit particular attention and inquiry, as to the positions on it best calculated for health as well as safety.

SPECIAL MESSAGE.—FEBRUARY 19, 1806.

To the Senate and House of Representatives of the United States:—

In pursuance of a measure submitted to Congress by a message of January 18th, 1803, and sanctioned

by their appropriation for carrying it into execution, Captain Meriwether Lewis, of the first regiment of infantry, was appointed, with a party of men, to explore the river Missouri from its mouth to its source; and, crossing the highlands by the shortest portage, to seek the best water communication thence to the Pacific ocean; and Lieutenant Clarke was appointed second in command. They were to enter into conference with the Indian nation on their route, with a view to the establishment of commerce with them. They entered the Missouri, May 14th, 1804, and on the 1st of November, took up their winter quarters near the Maudan towns, 1609 miles above the mouth of the river, in latitude 47° 21′ 47″ north, and longitude 99° 24′ 45″ west, from Greenwich. On the 8th of April, 1805, they proceeded up the river in pursuance of the objects prescribed to them. A letter of the preceding day, April the 7th, from Captain Lewis, is herewith communicated. During his stay among the Maudans', he had been able to lay down the Missouri according to courses and distances taken under his passage up it, corrected by frequent observations of longitude and latitude, and to add to the actual survey of this portion of the river, a general map of the country between the Mississippi and Pacific, from the thirty-fourth to the fifty-fourth degrees of latitude. These additions are from information collected from Indians with whom he had opportunity of communicating during his journey and residence among them. Copies of this

map are now presented to both houses of Congress. With these I communicate, also, a statistical view, procured and forwarded by him, of the Indian nations inhabiting the territory of Louisiana, and the countries adjacent to its northern and western borders; of their commerce, and of other interesting circumstances respecting them.

In order to render the statement as complete as may be, of the Indians inhabiting the country west of the Mississippi, I add Dr. Sibley's account of those residing in and adjacent to the territory of Orleans.

I communicate also, from the same person, an account of the Red river, according to the best information he had been able to collect.

Having been disappointed, after considerable preparation, in the purpose of sending an exploring expedition up that river in the summer of 1804, it was thought best to employ the autumn in that year in procuring a knowledge on an interesting branch of the river called Washita. This was undertaken under the direction of Mr. Dunbar, of Natchez, a citizen of distinguished science, who had aided, and continues to aid us with his disinterested valuable services in the prosecution of these enterprises. He ascended the river to the remarkable hot springs near it, in latitude 34° 31′ 4″ .16, longitude, 92° 50′ 45″ west, from Greenwich, taking its courses and distances, and correcting them by frequent celestial observations. Extracts from his observations, and copies of his map of the river, from its mouth to the

hot springs, make part of the present communications. The examination of the Red river itself is but now commencing.

SPECIAL MESSAGE.—MARCH 20, 1806.

To the Senate and House of Representatives of the United States:—

It was reasonably expected, that while the limits between the territories of the United States and of Spain were unsettled, neither party would have innovated on the existing state of their respective positions. Some time since, however, we learned that the Spanish authorities were advancing into the disputed country to occupy new posts and make new settlements. Unwilling to take any measures which might preclude a peaceable accommodation of differences, the officers of the United States were ordered to confine themselves within the country on this side of the Sabine river; which, by the delivery of its principal post (Natchitoches), was understood to have been itself delivered up by Spain; and at the same time to permit no adverse post to be taken, nor armed men to remain within it. In consequence of these orders, the commanding officer of Natchitoches, learning that a party of Spanish troops had crossed the Sabine river and were posting themselves on this side the Adais, sent a detachment of his force to require them to withdraw to the other side of the Sabine, which they accordingly did.

I have thought it proper to communicate to Congress the letters detailing this incident, that they may fully understand the state of things in that quarter, and be enabled to make such provision for its security as in their wisdom they shall deem sufficient.

SPECIAL MESSAGE.—APRIL 14, 1806.

To the Senate and House of Representatives of the United States:—

During the blockade of Tripoli by the squadron of the United States, a small cruiser, under the flag of Tunis, with two prizes (all of trifling value), attempted to enter Tripoli, was turned back, warned, and attempting again to enter, was taken and detained as a prize by the squadron. Her restitution was claimed by the bey of Tunis, with a threat of war so serious, that, on withdrawing from the blockade of Tripoli, the commanding officer of the squadron thought it his duty to repair to Tunis with his squadron, and to require a categorical declaration whether peace or war was intended. The bey preferred explaining himself by an Ambassador to the United States, who, on his arrival, renewed the request that the vessel and her prizes should be restored. It was deemed proper to give this proof of friendship to the bey, and the Ambassador was informed the vessels would be restored. Afterward he made a requisition of naval stores to be sent to

the bey, in order to secure peace for the term of three years, with a threat of war if refused. It has been refused, and the Ambassador is about to depart without receding from his threat or demand.

Under these circumstances, and considering that the several provisions of the act, March 25th, 1804, will cease in consequence of the ratification of the treaty of peace with Tripoli, now advised to and consented to by the Senate, I have thought it my duty to communicate these facts, in order that Congress may consider the expediency of continuing the same provisions for a limited time or making others equivalent.

SIXTH ANNUAL MESSAGE.—DECEMBER 2, 1806.

To the Senate and House of Representatives of the United States in Congress assembled:—

It would have given me, fellow citizens, great satisfaction to announce in the moment of your meeting that the difficulties in our foreign relations, existing at the time of your last separation, had been amicably and justly terminated. I lost no time in taking those measures which were most likely to bring them to such a termination, by special missions charged with such powers and instructions as in the event of failure could leave no imputation on either our moderation or forbearance. The delays which have since taken place in our negotiations with the British government appears to have proceeded from

causes which do not forbid the expectation that during the course of the session I may be enabled to lay before you their final issue. What will be that of the negotiations for settling our differences with Spain, nothing which had taken place at the date of the last despatches enables us to pronounce. On the western side of the Mississippi she advanced in considerable force, and took post at the settlement of Bayou Pierre, on the Red river. This village was originally settled by France, was held by her as long as she held Louisiana, and was delivered to Spain only as a part of Louisiana. Being small, insulated, and distant, it was not observed, at the moment of redelivery to France and the United States, that she continued a guard of half a dozen men which had been stationed there. A proposition, however, having been lately made by our commander-in-chief, to assume the Sabine river as a temporary line of separation between the troops of the two nations until the issue of our negotiation shall be known; this has been referred by the Spanish commandant to his superior, and in the meantime, he has withdrawn his force to the western side of the Sabine river. The correspondence on this subject, now communicated, will exhibit more particularly the present state of things in that quarter.

The nature of that country requires indispensably that an unusual proportion of the force employed there should be cavalry or mounted infantry. In order, therefore, that the commanding officer might

be enabled to act with effect, I had authorized him to call on the Governors of Orleans and Mississippi for a corps of five hundred volunteer cavalry. The temporary arrangement he has proposed may perhaps render this unnecessary. But I inform you with great pleasure of the promptitude with which the inhabitants of those territories have tendered their services in defence of their country. It has done honor to themselves, entitled them to the confidence of their fellow-citizens in every part of the Union, and must strengthen the general determination to protect them efficaciously under all circumstances which may occur.

Having received information that in another part of the United States a great number of private individuals were combining together, arming and organizing themselves contrary to law, to carry on military expeditions against the territories of Spain, I thought it necessary, by proclamations as well as by special orders, to take measures for preventing and suppressing this enterprise, for seizing the vessels, arms, and other means provided for it, and for arresting and bringing to justice its authors and abettors. It was due to that good faith which ought ever to be the rule of action in public as well as in private transactions; it was due to good order and regular government, that while the public force was acting strictly on the defensive and merely to protect our citizens from aggression, the criminal attempts of private individuals to decide for their country the question

of peace or war, by commencing active and unauthorized hostilities, should be promptly and efficaciously suppressed.

Whether it will be necessary to enlarge our regular force will depend on the result of our negotiation with Spain; but as it is uncertain when that result will be known, the provisional measures requisite for that, and to meet any pressure intervening in that quarter, will be a subject for your early consideration.

The possession of both banks of the Mississippi reducing to a single point the defence of that river, its waters, and the country adjacent, it becomes highly necessary to provide for that point a more adequate security. Some position above its mouth, commanding the passage of the river, should be rendered sufficiently strong to cover the armed vessels which may be stationed there for defence, and in conjunction with them to present an insuperable obstacle to any force attempting to pass. The approaches to the city of New Orleans, from the eastern quarter also, will require to be examined, and more effectually guarded. For the internal support of the country, the encouragement of a strong settlement on the western side of the Mississippi, within reach of New Orleans, will be worthy the consideration of the legislature.

The gun-boats authorized by an act of the last session are so advanced that they will be ready for service in the ensuing spring. Circumstances per-

mitted us to allow the time necessary for their more solid construction. As a much larger number will still be wanting to place our seaport towns and waters in that state of defence to which we are competent and they entitled, a similar appropriation for a further provision for them is recommended for the ensuing year.

A further appropriation will also be necessary for repairing fortifications already established, and the erection of such works as may have real effect in obstructing the approach of an enemy to our seaport towns, or their remaining before them.

In a country whose constitution is derived from the will of the people, directly expressed by their free suffrages; where the principal executive functionaries, and those of the legislature, are renewed by them at short periods; where under the characters of jurors, they exercise in person the greatest portion of the judiciary powers; where the laws are consequently so formed and administered as to bear with equal weight and favor on all, restraining no man in the pursuits of honest industry, and securing to every one the property which that acquires, it would not be supposed that any safeguards could be needed against insurrection or enterprise on the public peace or authority. The laws, however, aware that these should not be trusted to moral restraints only, have wisely provided punishments for these crimes when committed. But would it not be salutary to give also the means of preventing their commission?

Where an enterprise is meditated by private individuals against a foreign nation in amity with the United States, powers of prevention to a certain extent are given by the laws; would they not be as reasonable and useful were the enterprise preparing against the United States? While adverting to this branch of the law, it is proper to observe, that in enterprises meditated against foreign nations, the ordinary process of binding to the observance of the peace and good behavior, could it be extended to acts to be done out of the jurisdiction of the United States, would be effectual in some cases where the offender is able to keep out of sight every indication of his purpose which could draw on him the exercise of the powers now given by law.

The states on the coast of Barbary seem generally disposed at present to respect our peace and friendship; with Tunis alone some uncertainty remains. Persuaded that it is our interest to maintain our peace with them on equal terms, or not at all, I propose to send in due time a reinforcement into the Mediterranean, unless previous information shall show it to be unnecessary.

We continue to receive proofs of the growing attachment of our Indian neighbors, and of their disposition to place all their interests under the patronage of the United States. These dispositions are inspired by their confidence in our justice, and in the sincere concern we feel for their welfare; and as long as we discharge these high and honorable functions with

the integrity and good faith which alone can entitle us to their continuance, we may expect to reap the just reward in their peace and friendship.

The expedition of Messrs. Lewis and Clarke, for exploring the river Missouri, and the best communication from that to the Pacific ocean, has had all the success which could have been expected. They have traced the Missouri nearly to its source, descended the Columbia to the Pacific ocean, ascertained with accuracy the geography of that interesting communication across our continent, learned the character of the country, of its commerce, and inhabitants; and it is but justice to say that Messrs. Lewis and Clarke, and their brave companions, have by this arduous service deserved well of their country.

The attempt to explore the Red river, under the direction of Mr. Freeman, though conducted with a zeal and prudence meriting entire approbation, has not been equally successful. After proceeding up it about six hundred miles, nearly as far as the French settlements had extended while the country was in their possession, our geographers were obliged to return without completing their work.

Very useful additions have also been made to our knowledge of the Mississippi by Lieutenant Pike, who has ascended to its source, and whose journal and map, giving the details of the journey, will shortly be ready for communication to both houses of Congress. Those of Messrs. Lewis and Clarke, and Freeman, will require further time to be digested and

prepared. These important surveys, in addition to those before possessed, furnish materials for commencing an accurate map of the Mississippi, and its western waters. Some principal rivers, however, remain still to be explored, toward which the authorization of Congress, by moderate appropriations, will be requisite.

I congratulate you, fellow citizens, on the approach of the period at which you may interpose your authority constitutionally, to withdraw the citizens of the United States from all further participation in those violations of human rights which have been so long continued on the unoffending inhabitants of Africa, and which the morality, the reputation, and the best interests of our country, have long been eager to proscribe. Although no law you may pass can take prohibitory effect till the first day of the year one thousand eight hundred and eight, yet the intervening period is not too long to prevent, by timely notice, expeditions which cannot be completed before that day.

The receipts at the treasury during the year ending on the 30th of September last, have amounted to near fifteen millions of dollars, which have enabled us, after meeting the current demands, to pay two millions seven hundred thousand dollars of the American claims, in parts of the price of Louisiana; to pay of the funded debt upward of three millions of principal, and nearly four of interest; and in addition, to reimburse, in the course of the present

month, near two millions of five and a half per cent. stock. These payments and reimbursements of the funded debt, with those which have been made in four years and a half preceding, will, at the close of the present year, have extinguished upward of twenty-three millions of principal.

The duties composing the Mediterranean fund will cease by law at the end of the present season. Considering, however, that they are levied chiefly on luxuries, and that we have an impost on salt, a necessary of life, the free use of which otherwise is so important, I recommend to your consideration the suppression of the duties on salt, and the continuation of the Mediterranean fund, instead thereof, for a short time, after which that also will become unnecessary for any purpose now within contemplation.

When both of these branches of revenue shall in this way be relinquished, there will still ere long be an accumulation of moneys in the treasury beyond the instalments of public debt which we are permitted by contract to pay. They cannot, then, without a modification assented to by the public creditors, be applied to the extinguishment of this debt, and the complete liberation of our revenues—the most desirable of all objects; nor, if our peace continues, will they be wanting for any other existing purpose. The question, therefore, now comes forward,—to what other objects shall these surpluses be appropriated, and the whole surplus of impost,

after the entire discharge of the public debt, and during those intervals when the purposes of war shall not call for them? Shall we suppress the impost and give that advantage to foreign over domestic manufactures? On a few articles of more general and necessary use, the suppression in due season will doubtless be right, but the great mass of the articles on which impost is paid is foreign luxuries, purchased by those only who are rich enough to afford themselves the use of them. Their patriotism would certainly prefer its continuance and application to the great purposes of the public education, roads, rivers, canals, and such other objects of public improvement as it may be thought proper to add to the constitutional enumeration of federal powers. By these operations new channels of communication will be opened between the States; the lines of separation will disappear, their interests will be identified, and their union cemented by new and indissoluble ties. Education is here placed among the articles of public care, not that it would be proposed to take its ordinary branches out of the hands of private enterprise, which manages so much better all the concerns to which it is equal; but a public institution can alone supply those sciences which, though rarely called for, are yet necessary to complete the circle, all the parts of which contribute to the improvement of the country, and some of them to its preservation. The subject is now proposed for the consideration of Congress, because, if approved by the time the State

legislatures shall have deliberated on this extension of the federal trusts, and the laws shall be passed, and other arrangements made for their execution, the necessary funds will be on hand and without employment. I suppose an amendment to the Constitution, by consent of the States, necessary, because the objects now recommended are not among those enumerated in the Constitution, and to which it permits the public moneys to be applied.

The present consideration of a national establishment for education, particularly, is rendered proper by this circumstance also, that if Congress, approving the proposition, shall yet think it more eligible to found it on a donation of lands, they have it now in their power to endow it with those which will be among the earliest to produce the necessary income. This foundation would have the advantage of being independent on war, which may suspend other improvements by requiring for its own purposes the resources destined for them.

This, fellow citizens, is the state of the public interest at the present moment, and according to the information now possessed. But such is the situation of the nations of Europe, and such, too, the predicament in which we stand with some of them, that we cannot rely with certainty on the present aspect of our affairs that may change from moment to moment, during the course of your session or after you shall have separated. Our duty is, therefore, to act upon things as they are, and to make a reasonable pro-

vision for whatever they may be. Were armies to be raised whenever a speck of war is visible in our horizon, we never should have been without them. Our resources would have been exhausted on dangers which have never happened, instead of being reserved for what is really to take place. A steady, perhaps a quickened pace in preparations for the defence of our seaport towns and waters; an early settlement of the most exposed and vulnerable parts of our country; a militia so organized that its effective portions can be called to any point in the Union, or volunteers instead of them to serve a sufficient time, are means which may always be ready yet never preying on our resources until actually called into use. They will maintain the public interests while a more permanent force shall be in course of preparation. But much will depend on the promptitude with which these means can be brought into activity. If war be forced upon us in spite of our long and vain appeals to the justice of nations, rapid and vigorous movements in its outset will go far toward securing us in its course and issue, and toward throwing its burdens on those who render necessary the resort from reason to force.

The result of our negotiations, or such incidents in their course as may enable us to infer their probable issue; such further movements also on our western frontiers as may show whether war is to be pressed there while negotiation is protracted elsewhere, shall be communicated to you from time to

time as they become known to me, with whatever other information I possess or may receive, which may aid your deliberations on the great national interests committed to your charge.

SPECIAL MESSAGE.—DECEMBER 3, 1806.

To the Senate and House of Representatives of the United States:—

I have the satisfaction to inform you that the negotiation depending between the United States and the government of Great Britain is proceeding in a spirit of friendship and accommodation which promises a result of mutual advantage. Delays, indeed, have taken place, occasioned by the long illness and subsequent death of the British Minister charged with that duty. But the commissioners appointed by that government to resume the negotiation have shown every disposition to hasten its progress. It is, however, a work of time, as many arrangements are necessary to place our future harmony on stable grounds. In the meantime, we find by the communications of our Plenipotentiaries, that a temporary suspension of the act of the last session prohibiting certain importations, would, as a mark of candid disposition on our part, and of confidence in the temper and views with which they have been met, have a happy effect on its course. A step so friendly will afford further evidence that all our proceedings have flowed from views of justice and con-

ciliation, and that we give them willingly that form which may best meet corresponding dispositions.

Add to this, that the same motives which produced the postponement of the act till the fifteenth of November last, are in favor of its further suspension; and as we have reason to hope that it may soon yield to arrangements of mutual consent and convenience, justice seems to require that the same measure may be dealt out to the few cases which may fall within its short course, as to all others preceding and following it. I cannot, therefore, but recommend the suspension of this act for a reasonable time, on considerations of justice, amity, and the public interests.

SPECIAL MESSAGE.—JANUARY 22, 1807.

To the Senate and House of Representatives of the United States:—

Agreeably to the request of the House of Representatives, communicated in their resolution of the sixteenth instant, I proceed to state under the reserve therein expressed, information received touching an illegal combination of private individuals against the peace and safety of the Union, and a military expedition planned by them against the territories of a power in amity with the United States, with the measures I have pursued for suppressing the same.

I had for some time been in the constant expecta-

tion of receiving such further information as would have enabled me to lay before the legislature the termination as well as the beginning and progress of this scene of depravity, so far as it has been acted on the Ohio and its waters. From this the state and safety of the lower country might have been estimated on probable grounds, and the delay was indulged the rather, because no circumstance had yet made it necessary to call in the aid of the legislative functions. Information now recently communicated has brought us nearly to the period contemplated. The mass of what I have received, in the course of these transactions, is voluminous, but little has been given under the sanction of an oath, so as to constitute formal and legal evidence. It is chiefly in the form of letters, often containing such a mixture of rumors, conjectures, and suspicions, as render it difficult to sift out the real facts, and unadvisable to hazard more than general outlines, strengthened by concurrent information, or the particular credibility of the relater. In this state of the evidence, delivered sometimes, too, under the restriction of private confidence, neither safety nor justice will permit the exposing names, except that of the principal actor, whose guilt is placed beyond question.

Some time in the latter part of September, I received intimations that designs were in agitation in the western country, unlawful and unfriendly to the peace of the Union; and that the prime mover in these was Aaron Burr, heretofore distinguished by

the favor of his country. The grounds of these intimations being inconclusive, the objects uncertain, and the fidelity of that country known to be firm, the only measure taken was to urge the informants to use their best endeavors to get further insight into the designs and proceedings of the suspected persons, and to communicate them to me.

It was not until the latter part of October, that the objects of the conspiracy began to be perceived, but still so blended and involved in mystery that nothing distinct could be singled out for pursuit. In this state of uncertainty as to the crime contemplated, the acts done, and the legal course to be pursued, I thought it best to send to the scene where these things were principally in transaction, a person, in whose integrity, understanding, and discretion, entire confidence could be reposed, with instructions to investigate the plots going on, to enter into conference (for which he had sufficient credentials) with the governors and all other officers, civil and military, and with their aid to do on the spot whatever should be necessary to discover the designs of the conspirators, arrest their means, bring their persons to punishment, and to call out the force of the country to suppress any unlawful enterprise in which it should be found they were engaged. By this time it was known that many boats were under preparation, stores of provisions collecting, and an unusual number of suspicious characters in motion on the Ohio and its waters. Besides despatching the con-

fidential agent to that quarter, orders were at the same time sent to the governors of the Orleans and Mississippi territories, and to the commanders of the land and naval forces there, to be on their guard against surprise, and in constant readiness to resist any enterprise which might be attempted on the vessels, posts, or other objects under their care; and on the 8th of November, instructions were forwarded to General Wilkinson to hasten an accommodation with the Spanish commander on the Sabine, and as soon as that was effected, to fall back with his principal force to the hither bank of the Mississippi, for the defence of the intersecting points on that river. By a letter received from that officer on the 25th of November, but dated October 21st, we learn that a confidential agent of Aaron Burr had been deputed to him, with communications partly written in cipher and partly oral, explaining his designs, exaggerating his resources, and making such offers of emolument and command, to engage him and the army in his unlawful enterprise, as he had flattered himself would be successful. The general, with the honor of a soldier and fidelity of a good citizen, immediately despatched a trusty officer to me with information of what had passed, proceeding to establish such an understanding with the Spanish commandant on the Sabine as permitted him to withdraw his force across the Mississippi, and to enter on measures for opposing the projected enterprise.

The general's letter, which came to hand on the

25th of November, as has been mentioned, and some other information received a few days earlier, when brought together, developed Burr's general designs, different parts of which only had been revealed to different informants. It appeared that he contemplated two distinct objects, which might be carried on either jointly or separately, and either the one or the other first, as circumstances should direct. One of these was the severance of the Union of these States by the Alleghany mountains; the other, an attack on Mexico. A third object was provided, merely ostensible, to wit: the settlement of a pretended purchase of a tract of country on the Washita, claimed by a Baron Bastrop. This was to serve as the pretext for all his preparations, an allurement for such followers as really wished to acquire settlements in that country, and a cover under which to retreat in the event of final discomfiture of both branches of his real design.

He found at once that the attachment of the western country to the present Union was not to be shaken; that its dissolution could not be effected with the consent of its inhabitants, and that his resources were inadequate, as yet, to effect it by force. He took his course then at once, determined to seize on New Orleans, plunder the bank there, possess himself of the military and naval stores, and proceed on his expedition to Mexico; and to this object all his means and preparations were now directed. He collected from all the quarters where

himself or his agents possessed influence, all the ardent, restless, desperate, and disaffected persons who were ready for any enterprise analogous to their characters. He seduced good and well-meaning citizens, some by assurances that he possessed the confidence of the government and was acting under its secret patronage, a pretence which obtained some credit from the state of our differences with Spain; and others by offers of land in Bastrop's claim on the Washita.

This was the state of my information of his proceedings about the last of November, at which time, therefore, it was first possible to take specific measures to meet them. The proclamation of November 27th, two days after the receipt of General Wilkinson's information, was now issued. Orders were despatched to every intersecting point on the Ohio and Mississippi, from Pittsburg to New Orleans, for the employment of such force either of the regulars or of the militia, and of such proceedings also of the civil authorities, as might enable them to seize on all the boats and stores provided for the enterprise, to arrest the persons concerned, and to suppress effectually the further progress of the enterprise. A little before the receipt of these orders in the State of Ohio, our confidential agent, who had been diligently employed in investigating the conspiracy, had acquired sufficient information to open himself to the governor of that State, and apply for the immediate exertion of the authority and power of

the State to crush the combination. Governor Tiffin and the legislature, with a promptitude, an energy, and patriotic zeal, which entitle them to a distinguished place in the affection of their sister States, effected the seizure of all the boats, provisions, and other preparations within their reach, and thus gave a first blow, materially disabling the enterprise in its outset.

In Kentucky, a premature attempt to bring Burr to justice, without sufficient evidence for his conviction, had produced a popular impression in his favor, and a general disbelief of his guilt. This gave him an unfortunate opportunity of hastening his equipments. The arrival of the proclamation and orders, and the application and information of our confidential agent, at length awakened the authorities of that State to the truth, and then produced the same promptitude and energy of which the neighboring State had set the example. Under an act of their legislature of December 23d, militia was instantly ordered to different important points, and measures taken for doing whatever could yet be done. Some boats (accounts vary from five to double or treble that number) and persons (differently estimated from one to three hundred) had in the meantime passed the falls of the Ohio, to rendezvous at the mouth of the Cumberland, with others expected down that river.

Not apprized, till very late, that any boats were building on Cumberland, the effect of the procla-

mation had been trusted to for some time in the State of Tennessee; but on the 19th of December, similar communications and instructions with those of the neighboring States were despatched by express to the governor, and a general officer of the western division of the State, and on the 23d of December our confidential agent left Frankfort for Nashville, to put into activity the means of that State also. But by information received yesterday, I learn that on the 22d of December, Mr. Burr descended the Cumberland with two boats merely of accommodation, carrying with him from that State no quota toward his unlawful enterprise. Whether after the arrival of the proclamation, of the orders, or of our agent, any exertion which could be made by that State, or the orders of the governor of Kentucky for calling out the militia at the mouth of Cumberland, would be in time to arrest these boats, and those from the falls of the Ohio, is still doubtful.

On the whole, the fugitives from Ohio, with their associates from Cumberland, or any other place in that quarter, cannot threaten serious danger to the city of New Orleans.

By the same express of December nineteenth, orders were sent to the governors of New Orleans and Mississippi, supplementary to those which had been given on the twenty-fifth of November, to hold the militia of their territories in readiness to co-operate for their defence, with the regular troops and

armed vessels then under command of General Wilkinson. Great alarm, indeed, was excited at New Orleans by the exaggerated accounts of Mr. Burr, disseminated through his emissaries, of the armies and navies he was to assemble there. General Wilkinson had arrived there himself on the 24th of November, and had immediately put into activity the resources of the place for the purpose of its defence; and on the tenth of December he was joined by his troops from the Sabine. Great zeal was shown by the inhabitants generally, the merchants of the place readily agreeing to the most laudable exertions and sacrifices for manning the armed vessels with their seamen, and the other citizens manifesting unequivocal fidelity to the Union, and a spirit of determined resistance to their expected assailants.

Surmises have been hazarded that this enterprise is to receive aid from certain foreign powers. But these surmises are without proof or probability. The wisdom of the measures sanctioned by Congress at its last session had placed us in the paths of peace and justice with the only powers with whom we had any differences, and nothing has happened since which makes it either their interest or ours to pursue another course. No change of measures has taken place on our part; none ought to take place at this time. With the one, friendly arrangement was then proposed, and the law deemed necessary on the failure of that was suspended to give time for a fair trial

of the issue. With the same power, negotiation is still preferred, and provisional measures only are necessary to meet the event of rupture. While, therefore, we do not deflect in the slightest degree from the course we then assumed, and are still pursuing, with mutual consent, to restore a good understanding, we are not to impute to them practices as irreconcilable to interest as to good faith, and changing necessarily the relations of peace and justice between us to those of war. These surmises are, therefore, to be imputed to the vauntings of the author of this enterprise, to multiply his partisans by magnifying the belief of his prospects and support.

By letters from General Wilkinson, of the 14th and 18th of September, which came to hand two days after date of the resolution of the House of Representatives, that is to say, on the morning of the 18th instant, I received the important affidavit, a copy of which I now communicate, with extracts of so much of the letters as come within the scope of the resolution. By these it will be seen that of three of the principal emissaries of Mr. Burr, whom the general had caused to be apprehended, one had been liberated by *habeas corpus*, and the two others, being those particularly employed in the endeavor to corrupt the general and army of the United States, have been embarked by him for our ports in the Atlantic States, probably on the consideration that an impartial trial could not be expected during the

present agitations of New Orleans, and that that city was not as yet a safe place of confinement. As soon as these persons shall arrive, they will be delivered to the custody of the law, and left to such course of trial, both as to place and process, as its functionaries may direct. The presence of the highest judicial authorities, to be assembled at this place within a few days, the means of pursuing a sounder course of proceedings here than elsewhere, and the aid of the executive means, should the judges have occasion to use them, render it equally desirable for the criminals as for the public, that being already removed from the place where they were first apprehended, the first regular arrest should take place here, and the course of proceedings receive here its proper direction.

SPECIAL MESSAGE.—JANUARY 28, 1807.

To the Senate and House of Representatives of the United States:—

By the letters of Captain Bissel, who commands at Fort Massac, and of Mr. Murrell, to General Jackson, of Tennessee, copies of which are now communicated to Congress, it will be seen that Aaron Burr passed Fort Massac on the 31st December, with about ten boats, navigated by about six hands each, without any military appearance, and that three boats with ammunition were said to have been arrested by the militia at Louisville.

As the guards of militia posted on various points on the Ohio will be able to prevent any further aids passing through that channel, should any be attempted, we may now estimate, with tolerable certainty, the means derived from the Ohio and its waters, toward the accomplishment of the purposes of Mr. Burr.

SPECIAL MESSAGE.—JANUARY 31, 1807.

To the Senate and House of Representatives of the United States:—

In execution of the act of the last session of Congress, entitled, "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," I appointed Thomas Moore, of Maryland, Joseph Kerr, of Ohio, and Eli Williams, of Maryland, commissioners to lay out the said road, and to perform the other duties assigned to them by the act. The progress which they made in the execution of the work, during the last session, will appear in their report, now communicated to Congress. On the receipt of it, I took measures to obtain consent for making the road, of the States of Pennsylvania, Maryland, and Virginia, through which the commissioners proposed to lay it out. I have received acts of the legislatures of Maryland and Virginia, giving the consent desired; that of Pennsylvania has the subject still under consideration, as is supposed. Until I receive full consent to

a free choice of route through the whole distance, I have thought it safest neither to accept, nor reject, finally, the partial report of the commissioners. Some matters suggested in the report belong exclusively to the legislature.

SPECIAL MESSAGE.—FEBRUARY 10, 1807.

To the Senate and House of Representatives of the United States:—

In compliance with the request of the House of Representatives, expressed in their resolution of the 5th instant, I proceed to give such information as is possessed, of the effect of gun-boats in the protection and defence of harbors, of the numbers thought necessary, and of the proposed distribution of them among the ports and harbors of the United States.

Under the present circumstances, and governed by the intentions of the legislature, as manifested by their annual appropriations of money for the purposes of defence, it has been concluded to combine—1st, land batteries, furnished with heavy cannon and mortars, and established on all the points around the place favorable for preventing vessels from lying before it; 2d, movable artillery which may be carried, as an occasion may require, to points unprovided with fixed batteries; 3d, floating batteries; and 4th, gun-boats, which may oppose an enemy at its entrance and co-operate with the batteries for his expulsion.

On this subject professional men were consulted as far as we had opportunity. General Wilkinson, and the late General Gates, gave their opinions in writing, in favor of the system, as will be seen by their letters now communicated. The higher officers of the navy gave the same opinions in separate conferences, as their presence at the seat of government offered occasions of consulting them, and no difference of judgment appeared on the subjects. Those of Commodore Barron and Captain Tingey, now here, are recently furnished in writing, and transmitted herewith to the legislature.

The efficacy of gun-boats for the defence of harbors, and of other smooth and enclosed waters, may be estimated in part from that of galleys, formerly much used, but less powerful, more costly in their construction and maintenance, and requiring more men. But the gun-boat itself is believed to be in use with every modern maritime nation for the purpose of defence. In the Mediterranean, on which are several small powers, whose system like ours is peace and defence, few harbors are without this article of protection. Our own experience there of the effect of gun-boats for harbor service, is recent. Algiers is particularly known to have owed to a great provision of these vessels the safety of its city, since the epoch of their construction. Before that it had been repeatedly insulted and injured. The effect of gun-boats at present in the neighborhood of Gibraltar, is well known, and how much they were used

both in the attack and defence of that place during a former war. The extensive resort to them by the two greatest naval powers in the world, on an enterprise of invasion not long since in prospect, shows their confidence in their efficacy for the purposes for which they are suited. By the northern powers of Europe, whose seas are particularly adapted to them, they are still more used. The remarkable action between the Russian flotilla of gun-boats and galleys, and a Turkish fleet of ships-of-the-line and frigates, in the Liman sea, 1788, will be readily recollected. The latter, commanded by their most celebrated admiral, were completely defeated, and several of their ships-of-the-line destroyed.

From the opinions given as to the number of gun-boats necessary for some of the principal seaports, and from a view of all the towns and ports from Orleans to Maine inclusive, entitled to protection, in proportion to their situation and circumstances, it is concluded, that to give them a due measure of protection in time of war, about two hundred gun-boats will be requisite. According to first ideas, the following would be their general distribution, liable to be varied on more mature examination, and as circumstances shall vary, that is to say:—

To the Mississippi and its neighboring waters, forty gun-boats.

To Savannah and Charleston, and the harbors on each side, from St. Mary's to Currituck, twenty-five.

To the Chesapeake and its waters, twenty.

To Delaware bay and river, fifteen.

To New York, the Sound, and waters as far as Cape Cod, fifty.

To Boston and the harbors north of Cape Cod, fifty.

The flotilla assigned to these several stations, might each be under the care of a particular commandant, and the vessels composing them would, in ordinary, be distributed among the harbors within the station in proportion to their importance.

Of these boats a proper proportion would be of the larger size, such as those heretofore built, capable of navigating any seas, and of reinforcing occasionally the strength of even the most distant port when menaced with danger. The residue would be confined to their own or the neighboring harbors, would be smaller, less furnished for accommodation, and consequently less costly. Of the number supposed necessary, seventy-three are built or building, and the hundred and twenty-seven still to be provided, would cost from five to six hundred thousand dollars. Having regard to the convenience of the treasury, as well as to the resources of building, it has been thought that one half of these might be built in the present year, and the other half the next. With the legislature, however, it will rest to stop where we are, or at any further point, when they shall be of opinion that the number provided shall be sufficient for the object.

At times when Europe as well as the United States

shall be at peace, it would not be proposed that more than six or eight of these vessels should be kept afloat. When Europe is in war, treble that number might be necessary to be distributed among those particular harbors which foreign vessels of war are in the habit of frequenting, for the purpose of preserving order therein.

But they would be manned, in ordinary, with only their complement for navigation, relying on the seamen and militia of the port if called into action on sudden emergency. It would be only when the United States should themselves be at war, that the whole number would be brought into actual service, and would be ready in the first moments of the war to co-operate with other means for covering at once the line of our seaports. At all times, those unemployed would be withdrawn into places not exposed to sudden enterprise, hauled up under sheds from the sun and weather, and kept in preservation with little expense for repairs or maintenance.

It must be superfluous to observe, that this species of naval armament is proposed merely for defensive operation; that it can have but little effect toward protecting our commerce in the open seas even on our coast; and still less can it become an excitement to engage in offensive maritime war, toward which it would furnish no means.

SEVENTH ANNUAL MESSAGE.—OCTOBER 27, 1807.

To the Senate and House of Representatives of the United States:—

Circumstances, fellow citizens, which seriously threatened the peace of our country, have made it a duty to convene you at an earlier period than usual. The love of peace, so much cherished in the bosoms of our citizens, which has so long guided the proceedings of the public councils, and induced forbearance under so many wrongs, may not insure our continuance in the quiet pursuits of industry. The many injuries and depredations committed on our commerce and navigation upon the high seas for years past, the successive innovations on those principles of public law which have been established by the reason and usage of nations as the rule of their intercourse, and the umpire and security of their rights and peace, and all the circumstances which induced the extraordinary mission to London, are already known to you. The instructions given to our ministers were framed in the sincerest spirit of amity and moderation. They accordingly proceeded, in conformity therewith, to propose arrangements which might embrace and settle all the points in difference between us, which might bring us to a mutual understanding on our neutral and national rights, and provide for a commercial intercourse on conditions of some equality. After long and fruitless endeavors to effect the purposes of their mission,

and to obtain arrangements within the limits of their instructions, they concluded to sign such as could be obtained, and to send them for consideration, candidly declaring to the other negotiators, at the same time, that they were acting against their instructions, and that their government, therefore, could not be pledged for ratification. Some of the articles proposed might have been admitted on a principle of compromise, but others were too highly disadvantageous, and no sufficient provision was made against the principal source of the irritations and collisions which were constantly endangering the peace of the two nations. The question, therefore, whether a treaty should be accepted in that form could have admitted but one decision, even had no declarations of the other party impaired our confidence in it. Still anxious not to close the door against friendly adjustment, new modifications were framed, and further concessions authorized than could before have been supposed necessary; and our ministers were instructed to resume their negotiations on these grounds. On this new reference to amicable discussion, we were reposing in confidence, when on the 22d day of June last, by a formal order from the British admiral, the frigate Chesapeake, leaving her port for distant service, was attacked by one of those vessels which had been lying in our harbors under the indulgences of hospitality, was disabled from proceeding, had several of her crew killed, and four taken away. On this outrage no

commentaries are necessary. Its character has been pronounced by the indignant voice of our citizens with an emphasis and unanimity never exceeded. I immediately, by proclamation, interdicted our harbors and waters to all British armed vessels, forbade intercourse with them, and uncertain how far hostilities were intended, and the town of Norfolk, indeed, being threatened with immediate attack, a sufficient force was ordered for the protection of that place, and such other preparations commenced and pursued as the prospect rendered proper. An armed vessel of the United States was despatched with instructions to our ministers at London to call on that government for the satisfaction and security required by the outrage. A very short interval ought now to bring the answer, which shall be communicated to you as soon as received; then also, or as soon after as the public interests shall be found to admit, the unratified treaty, and the proceedings relative to it, shall be made known to you.

The aggression thus begun has been continued on the part of the British commanders, by remaining within our waters, in defiance of the authority of the country, by habitual violations of its jurisdiction, and at length by putting to death one of the persons whom they had forcibly taken from on board the Chesapeake. These aggravations necessarily lead to the policy, either of never admitting an armed vessel into our harbors, or of maintaining in every harbor such an armed force as may con-

strain obedience to the laws, and protect the lives and property of our citizens, against their armed guests. But the expense of such a standing force, and its inconsistence with our principles, dispense with those courtesies which would necessarily call for it, and leave us equally free to exclude the navy, as we are the army, of a foreign power, from entering our limits.

To former violations of maritime rights, another is now added of very extensive effect. The government of that nation has issued an order interdicting all trade by neutrals between ports not in amity with them; and being now at war with nearly every nation on the Atlantic and Mediterranean seas, our vessels are required to sacrifice their cargoes at the first port they touch, or to return home without the benefit of going to any other market. Under this new law of the ocean, our trade on the Mediterranean has been swept away by seizures and condemnations, and that in other seas is threatened with the same fate.

Our differences with Spain remain still unsettled; no measure having been taken on her part, since my last communication to Congress, to bring them to a close. But under a state of things which may favor a reconsideration, they have been recently pressed, and an expectation is entertained that they may now soon be brought to an issue of some sort. With their subjects on our borders, no new collisions have taken place nor seem immediately to be appre-

hended. To our former grounds of complaint has been added a very serious one, as you will see by the decree, a copy of which is now communicated. Whether this decree, which professes to be conformable to that of the French Government of November 21st, 1806, heretofore communicated to Congress, will also be conformed to that in its construction and application in relation to the United States, had not been ascertained at the date of our last communications. These, however, gave reason to expect such a conformity.

With the other nations of Europe our harmony has been uninterrupted, and commerce and friendly intercourse have been maintained on their usual footing.

Our peace with the several states on the coast of Barbary appears as firm as at any former period, and is as likely to continue as that of any other nation.

Among our Indian neighbors in the north-western quarter, some fermentation was observed soon after the late occurrences, threatening the continuance of our peace. Messages were said to be interchanged, and tokens to be passing, which usually denote a state of restlessness among them, and the character of the agitators pointed to the sources of excitement. Measures were immediately taken for providing against that danger; instructions were given to require explanations, and with assurances of our continued friendship, to admonish the tribes to

remain quiet at home, taking no part in quarrels not belonging to them. As far as we are yet informed, the tribes in our vicinity, who are most advanced in the pursuits of industry, are sincerely disposed to adhere to their friendship with us, and to their peace with all others; while those more remote do not present appearances sufficiently quiet to justify the intermission of military precaution on our part.

The great tribes on our south-western quarter, much advanced beyond the others in agriculture and household arts, appear tranquil, and identifying their views with ours, in proportion to their advancement. With the whole of these people, in every quarter, I shall continue to inculcate peace and friendship with all their neighbors, and perseverance in those occupations and pursuits which will best promote their own well-being.

The appropriations of the last session, for the defence of our seaport towns and harbors, were made under expectation that a continuance of our peace would permit us to proceed in that work according to our convenience. It has been thought better to apply the sums then given, toward the defence of New York, Charleston, and New Orleans chiefly, as most open and most likely first to need protection; and to leave places less immediately in danger to the provisions of the present session.

The gun-boats, too, already provided, have on a like principle been chiefly assigned to New York, New Orleans, and the Chesapeake. Whether our

movable force on the water, so material in aid of the defensive works on the land, should be augmented in this or any other form, is left to the wisdom of the legislature. For the purpose of manning these vessels in sudden attacks on our harbors, it is a matter for consideration, whether the seamen of the United States may not justly be formed into a special militia, to be called on for tours of duty in defence of the harbors where they shall happen to be; the ordinary militia of the place furnishing that portion which may consist of landsmen.

The moment our peace was threatened, I deemed it indispensable to secure a greater provision of those articles of military stores with which our magazines were not sufficiently furnished. To have awaited a previous and special sanction by law would have lost occasions which might not be retrieved. I did not hesitate, therefore, to authorize engagements for such supplements to our existing stock as would render it adequate to the emergencies threatening us; and I trust that the legislature, feeling the same anxiety for the safety of our country, so materially advanced by this precaution, will approve, when done, what they would have seen so important to be done if then assembled. Expenses, also unprovided for, arose out of the necessity of calling all our gun-boats into actual service for the defence of our harbors; of all which accounts will be laid before you.

Whether a regular army is to be raised, and to

what extent, must depend on the information so shortly expected. In the meantime, I have called on the States for quotas of militia, to be in readiness for present defence; and have, moreover, encouraged the acceptance of volunteers; and I am happy to inform you that these have offered themselves with great alacrity in every part of the Union. They are ordered to be organized, and ready at a moment's warning to proceed on any service to which they may be called, and every preparation within the executive powers has been made to insure us the benefit of early exertions.

I informed Congress at their last session of the enterprises against the public peace, which were believed to be in preparation by Aaron Burr and his associates, of the measures taken to defeat them, and to bring the offenders to justice. Their enterprises were happily defeated by the patriotic exertions of the militia wherever called into action, by the fidelity of the army, and energy of the commander-in-chief in promptly arranging the difficulties presenting themselves on the Sabine, repairing to meet those arising on the Mississippi, and dissipating, before their explosion, plots engendering there. I shall think it my duty to lay before you the proceedings and the evidence publicly exhibited on the arraignment of the principal offenders before the circuit court of Virginia. You will be enabled to judge whether the defeat was in the testimony, in the law, or in the administration of the law; and where-

ever it shall be found, the legislature alone can apply or originate the remedy. The framers of our constitution certainly supposed they had guarded, as well their government against destruction by treason, as their citizens against oppression, under pretence of it; and if these ends are not attained, it is of importance to inquire by what means, more effectual, they may be secured.

The accounts of the receipts of revenue, during the year ending on the thirtieth day of September last, being not yet made up, a correct statement will be hereafter transmitted from the treasury. In the meantime, it is ascertained that the receipts have amounted to near sixteen millions of dollars, which, with the five millions and a half in the treasury at the beginning of the year, have enabled us, after meeting the current demands and interest incurred, to pay more than four millions of the principal of our funded debt. These payments, with those of the preceding five and a half years, have extinguished of the funded debt twenty-five millions and a half of dollars, being the whole which could be paid or purchased within the limits of the law and of our contracts, and have left us in the treasury eight millions and a half of dollars. A portion of this sum may be considered as a commencement of accumulation of the surpluses of revenue, which, after paying the instalments of debts as they shall become payable, will remain without any specific object. It may partly, indeed, be applied toward

completing the defence of the exposed points of our country, on such a scale as shall be adapted to our principles and circumstances. This object is doubtless among the first entitled to attention, in such a state of our finances, and it is one which, whether we have peace or war, will provide security where it is due. Whether what shall remain of this, with the future surpluses, may be usefully applied to purposes already authorized, or more usefully to others requiring new authorities, or how otherwise they shall be disposed of, are questions calling for the notice of Congress, unless indeed they shall be superseded by a change in our public relations now awaiting the determination of others. Whatever be that determination, it is a great consolation that it will become known at a moment when the supreme council of the nation is assembled at its post, and ready to give the aids of its wisdom and authority to whatever course the good of our country shall then call us to pursue.

Matters of minor importance will be the subjects of future communications; and nothing shall be wanting on my part which may give information or despatch to the proceedings of the legislature in the exercise of their high duties, and at a moment so interesting to the public welfare.

SPECIAL MESSAGE.—NOVEMBER 23, 1807.

To the Senate and House of Representatives of the United States:—

Agreeably to the assurance in my message at the opening of the present session of Congress, I now lay before you a copy of the proceedings, and of the evidence exhibited on the arraignment of Aaron Burr, and others, before the circuit court of the United States, held in Virginia, in the course of the present year, in as authentic form as their several parts have admitted.

CONFIDENTIAL MESSAGE.[1]—DECEMBER 7, 1807.

To the Senate and House of Representatives of the United States:—

Having recently received from our late Minister

[1] This Message was not included in the Congressional edition of 1853. It was forwarded by Jefferson with the following communication to the Vice-President and Speaker of the House of Representatives:

"Dec. 7, 1807.

"SIR,—The papers now communicated to your house for perusal being to be read in the other house also, and, as originals, to be returned to me, Mr. Coles, my secretary, will attend to receive them, after they shall have been read to the satisfaction of your house; and, having handed them to the other house for the same purpose he will return them to me. I ask the favor of your aid in having this course pursued and in preventing their going from the clerk's table, or copies, or extracts being made from them by any one. I salute you with great esteem and respect."

December 8.—The Speaker apprehending it might be necessary for him to read this letter to the house, and that the last paragraph might be offensive, I took back this, and gave him a copy to the words 'return to me,' and I took back also that to the Vice-President (not yet delivered) and sent a copy to the word 'pursued.'"

Plenipotentiary at the court of London a duplicate of dispatches, the original of which has been sent by the Revenge schooner not yet arrived, I hasten to lay them before both houses of Congress. They contain the whole of what has passed between the two governments on the subject of the outrage committed by the British ship Leopard on the frigate Chesapeak. Congress will learn from these papers the present state of the discussion on that transaction, and that it is to be transferred to this place by the mission of a special minister.

While this information will have its proper effect on their deliberations and proceedings respecting the relations between the two countries, they will be sensible that, the negotiation being still depending, it is proper for me to request that the communications may be considered as confidential.

SPECIAL MESSAGE.—DECEMBER 18, 1807.

To the Senate and House of Representatives of the United States:—

The communications now made, showing the great and increasing dangers with which our vessels, our seamen, and merchandise, are threatened on the high seas and elsewhere, from the belligerent powers of Europe, and it being of great importance to keep in safety these essential resources, I deem it my duty to recommend the subject to the consideration

of Congress, who will doubtless perceive all the advantages which may be expected from an inhibition of the departure of our vessels from the ports of the United States.

Their wisdom will also see the necessity of making every preparation for whatever events may grow out of the present crisis.

SPECIAL MESSAGE.—JANUARY 20, 1808.

To the House of Representatives of the United States:—

Some days previous to your resolution of the 13th instant, a court of inquiry had been instituted at the request of General Wilkinson, charged to make the inquiry into his conduct which the first resolution desires, and had commenced their proceedings. To the judge-advocate of that court the papers and information on that subject, transmitted to me by the House of Representatives, have been delivered, to be used according to the rules and powers of that court.

The request of a communication of any information, which may have been received at any time since the establishment of the present government, touching combinations with foreign nations for dismembering the Union, or the corrupt receipt of money by any officer of the United States from the agents of foreign governments, can be complied with but in a partial degree.

It is well understood that, in the first or second year of the presidency of General Washington, infor-

mation was given to him relating to certain combinations with the agents of a foreign government for the dismemberment of the Union; which combinations had taken place before the establishment of the present federal government. This information, however, is believed never to have been deposited in any public office, or left in that of the president's secretary, these having been duly examined, but to have been considered as personally confidential, and, therefore, retained among his private papers. A communication from the governor of Virginia to General Washington, is found in the office of the president's secretary, which, although not strictly within the terms of the request of the House of Representatives, is communicated, inasmuch as it may throw some light on the subjects of the correspondence of that time, between certain foreign agents and citizens of the United States.

In the first or second year of the administration of President Adams, Andrew Ellicott, then employed in designating, in conjunction with the Spanish authorities, the boundaries between the territories of the United States and Spain, under the treaty with that nation, communicated to the executive of the United States papers and information respecting the subjects of the present inquiry, which were deposited in the office of State. Copies of these are now transmitted to the House of Representatives, except of a single letter and a reference from the said Andrew Ellicott, which being expressly desired to

be kept secret, is therefore not communicated, but its contents can be obtained from himself in a more legal form, and directions have been given to summon him to appear as a witness before the court of inquiry.

A paper "on the commerce of Louisiana," bearing date of the 18th of April, 1798, is found in the office of State, supposed to have been communicated by Mr. Daniel Clark, of New Orleans, then a subject of Spain, and now of the House of Representatives of the United States, stating certain commercial transactions of General Wilkinson, in New Orleans; an extract from this is now communicated, because it contains facts which may have some bearing on the questions relating to him.

The destruction of the war-office, by fire, in the close of 1800, involved all information it contained at that date.

The papers already described, therefore, constitute the whole information on the subjects, deposited in the public offices, during the preceding administrations, as far as has yet been found; but it cannot be affirmed that there may be no others, because, the papers of the office being filed, for the most part, alphabetically, unless aided by the suggestion of any particular name which may have given such information, nothing short of a careful examination of the papers in the offices generally, could authorize such affirmation.

About a twelvemonth after I came to the administration of the government, Mr. Clark gave some

verbal information to myself, as well as to the Secretary of State, relating to the same combinations for the dismemberment of the Union. He was listened to freely, and he then delivered the letter of Governor Gagoso, addressed to himself, of which a copy is now communicated. After his return to New Orleans, he forwarded to the Secretary of State other papers, with a request that, after perusal, they should be burned. This, however, was not done, and he was so informed by the Secretary of State, and that they would be held subject to his order. These papers have not yet been found in the office. A letter, therefore, has been addressed to the former chief clerk, who may, perhaps, give information respecting them. As far as our memories enable us to say, they related only to the combinations before spoken of, and not at all to the corrupt receipt of money by any officer of the United States; consequently, they respected what was considered as a dead matter, known to the preceding administrations, and offering nothing new to call for investigations, which those nearest the dates of the transactions had not thought proper to institute.

In the course of the communications made to me on the subject of the conspiracy of Aaron Burr, I sometimes received letters, some of them anonymous, some under names true or false, expressing suspicions and insinuations against General Wilkinson. But one only of them, and that anonymous, specified any particular fact, and that fact was one

of those which had already been communicated to a former administration.

No other information within the purview of the request of the house is known to have been received by any department of the government from the establishment of the present federal government. That which has recently been communicated to the House of Representatives, and by them to me, is the first direct testimony ever made known to me, charging General Wilkinson with the corrupt receipt of money; and the House of Representatives may be assured that the duties which this information devolves on me shall be exercised with rigorous impartiality. Should any want of power in the court to compel the rendering of testimony, obstruct that full and impartial inquiry, which alone can establish guilt or innocence, and satisfy justice, the legislative authority only will be competent to the remedy.

SPECIAL MESSAGE.—JANUARY 30, 1808.

To the Senate and House of Representatives of the United States:—

The Choctaws being indebted to their merchants beyond what could be discharged by the ordinary proceeds of their huntings, and pressed for payment, proposed to the United States to cede lands to the amount of their debts, and designated them in two different portions of their country. These designa-

tions not at all suiting us, were declined. Still, urged by their creditors, as well as their own desire to be liberated from debt, they at length proposed to make a cession which should be to our convenience. By a treaty signed at Pooshapakonuk, on the 16th November, 1805, they accordingly ceded all their lands south of a line to be run from their and our boundary at the Omochita, eastwardly to their boundary with the Creeks on the ridge between the Tombigbee and Alabama, as is more particularly described in the treaty, containing about five millions of acres, as is supposed, and uniting our possessions there from Adams to Washington county.

The location contemplated in the instructions to the commissioners was on the Mississippi. That in the treaty being entirely different, I was, at that time, disinclined to its ratification, and have suffered it to be unacted on. But progressive difficulties in our foreign relations have brought into view considerations other than those which then prevailed. It is perhaps now as interesting to obtain footing for a strong settlement of militia along our southern frontier, eastward of the Mississippi, as on the west of that river, and more so than higher up the river itself. The consolidation of the Mississippi territory, and the establishment of a barrier of separation between the Indians and our southern neighbors, are also important objects; and the Choctaws and their creditors being still anxious that the sale should be made, I submitted the treaty to the Senate, who

have advised and consented to its ratification. I, therefore, now lay it before both houses of Congress for the exercise of their constitutional powers as to the means of fulfilling it.

SPECIAL MESSAGE.—JANUARY 30, 1808.

To the Senate and House of Representatives of the United States:—

The posts of Detroit and Mackinac, having been originally intended by the governments which established and held them, as mere depôts for the commerce with the Indians, very small cessions of land around were obtained or asked from the native proprietors, and these posts depended for protection on the strength of their garrisons. The principle of our government leading us to the employment of such moderate garrisons in time of peace, as may merely take care of the post, and to a reliance on the neighboring militia for its support in the first moments of war, I have thought it would be important to obtain from the Indians such a cession of the neighborhood of these posts as might maintain a militia proportioned to this object; and I have particularly contemplated, with this view, the acquisition of the eastern moiety of the peninsula between the lakes Huron, Michigan, and Erie, extending it to the Connecticut reserve, so soon as it could be effected with the perfect good will of the natives.

By a treaty concluded at Detroit, on the 17th of November last, with the Ottawas, Chippewas, Wyandots, and Pottawatomies, so much of this country has been obtained as extends from about Saguina bay southwardly to the Miami of the lakes, supposed to contain upward of five millions of acres, with a prospect of obtaining, for the present, a breadth of two miles for a communication from the Miami to the Connecticut reserve.

The Senate having advised and consented to the ratification of this treaty, I now lay it before both houses of Congress for the exercise of their constitutional powers as to the means of fulfilling it.

SPECIAL MESSAGE.—FEBRUARY 2, 1808.

To the Senate and House of Representatives of the United States:—

Having received an official communication of certain orders of the British government against the maritime rights of neutrals, bearing date of the 11th of November, 1807, I transmitted to Congress, as a further proof of the increasing dangers to our navigation and commerce which led to the provident measures of the present session, laying an embargo on our own vessels.

SPECIAL MESSAGE.—FEBRUARY 4, 1808.

To the House of Representatives of the United States:—

In my message, January 20th, I stated that some papers forwarded by Mr. Daniel Clark, of New Orleans, to the Secretary of State, in 1803, had not then been found in the office of State; and that a letter had been addressed to the former chief clerk, in the hope that he might advise where they should be sought for. By indications received from him they are now found. Among them are two letters from the Baron de Carondelet to an officer serving under him at a separate post, in which his views of a dismemberment of our Union are expressed. Extracts of so much of these letters as are within the scope of the resolutions of the house, are now communicated. With these were found the letters from Mr. Clark, to the Secretary of State, in 1803. A part of one only of these relates to this subject, and is extracted and enclosed for the information of the house. In no part of the papers communicated by Mr. Clark, which are voluminous, and in different languages, nor in his letters, have we found any intimation of the corrupt receipt of money by any officer of the United States from any foreign nation. As to the combinations with foreign agents for the dismemberment of the Union, these papers and letters offer nothing which was not probably known to my predecessors, or which could call anew for inquiries, which they had not thought necessary to

institute, when the facts were recent and could be better proved. They probably believed it best to let pass into oblivion transactions, which, however culpable, had commenced before this government existed, and had been finally extinguished by the treaty of 1795.

SPECIAL MESSAGE.—FEBRUARY 9, 1808.

To the Senate and House of Representatives of the United States:—

I communicate to Congress, for their information, a letter from the person acting in the absence of our consul at Naples, giving reason to believe, on the affidavit of a Captain Sheffield of the American schooner Mary Ann, that the dey of Algiers had commenced war against the United States. For this no just cause has been given on our part within my knowledge. We may daily expect more authentic and particular information on the subject from Mr. Lear, who was residing as our consul at Algiers.

SPECIAL MESSAGE.—FEBRUARY 15, 1808.

To the Senate and House of Representatives of the United States:—

I communicate for the information of Congress a letter from the consul of the United States at Malaga, to the Secretary of State, covering one from Mr. Lear, our consul at Algiers, which gives information,

that the rupture threatened on the part of the dey of Algiers has been amicably settled, and the vessels seized by him are liberated.

SPECIAL MESSAGE.—FEBRUARY 19, 1808.

To the Senate and House of Representatives of the United States:—

The States of Pennsylvania, Maryland, and Virginia, having, by their several acts, consented that the road from Cumberland to the State of Ohio, authorized by the act of Congress of the 29th March, 1806, should pass through those States, and the report of the commissioners communicated to Congress with my message of the 31st January, 1807, having been duly considered, I have approved of the route therein proposed for the said road, as far as Brownsville, with a single deviation since located, which carries it through Uniontown.

From thence the course of the Ohio, and the point within the legal limits at which it shall strike that river, is still to be decided. In forming this decision, I shall pay material regard to the interests and wishes of the populous part of the State of Ohio, and to a future and convenient connection with the road which is to lead from the Indian boundary near Cincinnati, by Vincennes to the Mississippi, at St. Louis, under authority of the act, 21st April, 1806. In this way we may accomplish a continued and advantageous line of communication from the

seat of the general government to St. Louis, passing through several very interesting points of the western country.

I have thought it advisable also to secure from obliteration the trace of the road so far as it has been approved, which has been executed at such considerable expense, by opening one half of its breadth through its whole length.

The report of the commissioners, herewith transmitted, will give particular information of their proceedings, under the act of the 29th March, 1806, since the date of my message of the 31st January, 1807, and will enable Congress to adopt further measures relative thereto, as they may deem proper under existing circumstances.

SPECIAL MESSAGE.—FEBRUARY 25, 1808.

To the Senate and House of Representatives of the United States:—

The dangers of our country, arising from the contests of other nations and the urgency of making preparation for whatever events might affect our relations with them, have been intimated in preceding messages to Congress. To secure ourselves by due precautions, an augmentation of our military force, as well regular as of volunteer militia, seems to be expedient. The precise extent of that augmentation cannot as yet be satisfactorily suggested, but that no time may be lost, and especially at a season

deemed favorable to the object. I submit to the wisdom of the legislature whether they will authorize a commencement of this precautionary work by a present provision for raising and organizing some additional force; reserving to themselves to decide its ultimate extent on such views of our situation as I may be enabled to present at a future day of the session.

If an increase of force be now approved, I submit to their consideration the outlines of a plan proposed in the enclosed letter from the Secretary of War.

I recommend, also, to the attention of Congress, the term at which the act of April 18th, 1806, concerning the militia, will expire, and the effect of that expiration.

SPECIAL MESSAGE.—MARCH 7, 1808.

To the Senate and House of Representatives of the United States:—

In the city of New Orleans, and adjacent to it, are sundry parcels of ground, some of them with buildings and other improvements on them, which it is my duty to present to the attention of the legislature. The title to those grounds appears to have been retained in the former sovereigns of the province of Louisiana, as public fiduciaries, and for the purposes of the province. Some of them were used for the residence of the governor, for public offices, hospitals, barracks, magazines, fortifications, levees, &c., others

for the townhouse, schools, markets, landings, and other purposes of the city of New Orleans; some were held by religious corporations or persons; others seem to have been reserved for future disposition. To these must be added a parcel called the Batture, which requires more particular description. It is understood to have been a shoal or elevation of the bottom of the river, adjacent to the bank of the suburbs of St. Mary, produced by the successive depositions of mud during the annual inundations of the river, and covered with water only during those inundations. At all other seasons it has been used by the city, immemorially to furnish earth for raising their streets and courtyards, for mortar, and other necessary purposes, and as a landing or quay for unlading firewood, lumber, and other articles brought by water. This having been lately claimed by a private individual, the city opposed the claim on a supposed legal title in itself; but it has been adjudged that the legal title was not in the city. It is, however, alleged that that title, originally in the former sovereigns, was never parted with by them, but was retained in them for the uses of the city and province, and consequently has now passed over to the United States. Until this question can be decided under legislative authority, measures have been taken, according to law, to prevent any change in the state of things, and to keep the grounds clear of intruders. The settlement of this title, the appropriations of the grounds and improvements

formerly occupied for provincial purposes to the same or such other objects as may be better suited to present circumstances; the confirmation of the uses in other parcels to such bodies, corporate or private, as may of right, or other reasonable considerations, expect them, are matters now submitted to the legislature.

The papers and plans now transmitted, will give them such information on the subject as I possess, and being mostly originals, I must request that they may be communicated from the one to the other house to answer the purposes of both.

SPECIAL MESSAGE.—MARCH 17, 1808.

To the Senate and House of Representatives of the United States:—

I have heretofore communicated to Congress the decrees of the government of France, of November 21st, 1806, and of Spain, February 19th, 1807, with the orders of the British government, of January and November, 1807.

I now transmit a decree of the Emperor of France, of December 17th, 1807, and a similar decree of the 3d January last, by his Catholic Majesty. Although the decree of France has not been received by official communication, yet the different channels of promulgation through which the public are possessed of it, with the formal testimony furnished by the government of Spain, in their decree, leave us with-

out a doubt that such a one has been issued. These decrees and orders, taken together, want little of amounting to a declaration that every neutral vessel found on the high seas, whatsoever be her cargo, and whatsoever foreign port be that of her departure or destination, shall be deemed lawful prize; and they prove, more and more, the expediency of retaining our vessels, our seamen, and property, within our own harbors, until the dangers to which they are exposed can be removed or lessened.

SPECIAL MESSAGE.—MARCH 18, 1808.

To the Senate and House of Representatives of the United States:—

The scale on which the military academy at West Point was originally established, is become too limited to furnish the number of well-instructed subjects in the different branches of artillery and engineering which the public service calls for. The want of such characters is already sensibly felt, and will be increased with the enlargement of our plans of military preparation. The chief engineer having been instructed to consider the subject, and to propose an augmentation which might render the establishment commensurate with the present circumstances of our country, has made the report I now transmit for the consideration of Congress.

The idea suggested by him of removing the insti-

tution to this place, is also worthy of attention. Beside the advantage of placing it under the immediate eye of the government, it may render its benefits common to the naval department, and will furnish opportunities of selecting on better information, the characters most qualified to fulfil the duties which the public service may call for.

SPECIAL MESSAGE.—MARCH 22, 1808.

To the Senate and House of Representatives of the United States:—

At the opening of the present session I informed the legislature that the measures which had been taken with the government of Great Britain for the settlement of our neutral and national rights, and of the conditions of commercial intercourse with that nation, had resulted in articles of a treaty which could not be acceded to on our part; that instruction had consequently been sent to our Ministers there to resume the negotiations, and to endeavor to obtain certain alterations; and that this was interrupted by the transaction which took place between the frigates Leopard and Chesapeake. The call on that government for reparation of this wrong produced, as Congress have already been informed, the mission of a special Minister to this country, and the occasion is now arrived when the public interest permits and requires that the whole of these proceedings should be made known to you.

I therefore now communicate the instructions given to our Minister resident at London, and his communications to that government on the subject of the Chesapeake, with the correspondence which has taken place here between the Secretary of State and Mr. Rose, the special Minister charged with the adjustment of that difference; the instructions to our Ministers for the formation of a treaty; their correspondence with the British commissioners and with their own government on that subject; the treaty itself, and written declaration of the British commissioners accompanying it, and the instructions given by us for resuming the negotiations, with the proceedings and correspondence subsequent thereto. To these I have added a letter lately addressed to the Secretary of State from one of our late Ministers, which, though not strictly written in an official character, I think it my duty to communicate, in order that his views of the proposed treaty and its several articles may be fairly presented and understood.

Although I have heretofore and from time to time made such communications to Congress as to keep them possessed of a general and just view of the proceedings and dispositions of the government of France toward this country, yet, in our present critical situation, when we find no conduct on our part, however impartial and friendly, has been sufficient to insure from either belligerent a just respect for our rights, I am desirous that nothing shall be omitted on my

part which may add to your information on this subject, or contribute to the correctness of the views which should be formed. The papers which for these reasons I now lay before you embrace all the communications, official or verbal, from the French government, respecting the general relations between the two countries which have been transmitted through our Minister there, or through any other accredited channel, since the last session of Congress, to which time all information of the same kind had from time to time been given them. Some of these papers have already been submitted to Congress; but it is thought better to offer them again, in order that the chain of communications, of which they make a part, may be presented unbroken.

When, on the 26th of February, I communicated to both houses the letter of General Armstrong to M. Champagny, I desired it might not be published, because of the tendency of that practice to restrain injuriously the freedom of our foreign correspondence. But perceiving that this caution, proceeding purely from a regard for the public good, has furnished occasion for disseminating unfounded suspicions and insinuations, I am induced to believe that the good which will now result from its publication, by confirming the confidence and union of our fellow citizens, will more than countervail the ordinary objection to such publications. It is my wish, therefore, that it may be now published.

EIGHTH ANNUAL MESSAGE.—NOVEMBER 8, 1808.

To the Senate and House of Representatives of the United States:—

It would have been a source, fellow citizens, of much gratification, if our last communications from Europe had enabled me to inform you that the belligerent nations, whose disregard of neutral rights has been so destructive to our commerce, had become awakened to the duty and true policy of revoking their unrighteous edicts. That no means might be omitted to produce this salutary effect, I lost no time in availing myself of the act authorizing a suspension, in whole or in part, of the several embargo laws. Our ministers at London and Paris were instructed to explain to the respective governments there, our disposition to exercise the authority in such manner as would withdraw the pretext on which the aggressions were originally founded, and open the way for a renewal of that commercial intercourse which it was alleged on all sides had been reluctantly obstructed. As each of those governments had pledged its readiness to concur in renouncing a measure which reached its adversary through the incontestable rights of neutrals only, and as the measure had been assumed by each as a retaliation for an asserted acquiescence in the aggressions of the other, it was reasonably expected that the occasion would have been seized by both for evincing the sincerity of their profession, and for restoring to the commerce

of the United States its legitimate freedom. The instructions to our ministers with respect to the different belligerents were necessarily modified with reference to their different circumstances, and to the condition annexed by law to the executive power of suspension, requiring a degree of security to our commerce which would not result from a repeal of the decrees of France. Instead of a pledge, therefore, of a suspension of the embargo as to her in case of such a repeal, it was presumed that a sufficient inducement might be found in other considerations, and particularly in the change produced by a compliance with our just demands by one belligerent, and a refusal by the other, in the relations between the other and the United States. To Great Britain, whose power on the ocean is so ascendant, it was deemed not inconsistent with that condition to state explicitly, that on her rescinding her orders in relation to the United States their trade would be opened with her, and remain shut to her enemy, in case of his failure to rescind his decrees also. From France no answer has been received, nor any indication that the requisite change in her decrees is contemplated. The favorable reception of the proposition to Great Britain was the less to be doubted, as her orders of council had not only been referred for their vindication to an acquiescence on the part of the United States no longer to be pretended, but as the arrangement proposed, while it resisted the illegal decrees of France, involved, moreover, substantially, the pre-

cise advantages professedly aimed at by the British orders. The arrangement has nevertheless been rejected.

This candid and liberal experiment having thus failed, and no other event having occurred on which a suspension of the embargo by the executive was authorized, it necessarily remains in the extent originally given to it. We have the satisfaction, however, to reflect, that in return for the privations by the measure, and which our fellow citizens in general have borne with patriotism, it has had the important effects of saving our mariners and our vast mercantile property, as well as of affording time for prosecuting the defensive and provisional measures called for by the occasion. It has demonstrated to foreign nations the moderation and firmness which govern our councils, and to our citizens the necessity of uniting in support of the laws and the rights of their country, and has thus long frustrated those usurpations and spoliations which, if resisted, involve war; if submitted to, sacrificed a vital principle of our national independence.

Under a continuance of the belligerent measures which, in defiance of laws which consecrate the rights of neutrals, overspread the ocean with danger, it will rest with the wisdom of Congress to decide on the course best adapted to such a state of things; and bringing with them, as they do, from every part of the Union, the sentiments of our constituents, my confidence is strengthened, that in forming this

decision they will, with an unerring regard to the essential rights and interests of the nation, weigh and compare the painful alternatives out of which a choice is to be made. Nor should I do justice to the virtues which on other occasions have marked the character of our fellow citizens, if I did not cherish an equal confidence that the alternative chosen, whatever it may be, will be maintained with all the fortitude and patriotism which the crisis ought to inspire.

The documents containing the correspondences on the subject of the foreign edicts against our commerce, with the instructions given to our ministers at London and Paris, are now laid before you.

The communications made to Congress at their last session explained the posture in which the close of the discussion relating to the attack by a British ship of war on the frigate Chesapeake left a subject on which the nation had manifested so honorable a sensibility. Every view of what had passed authorized a belief that immediate steps would be taken by the British government for redressing a wrong, which, the more it was investigated, appeared the more clearly to require what had not been provided for in the special mission. It is found that no steps have been taken for the purpose. On the contrary, it will be seen, in the documents laid before you, that the inadmissible preliminary which obstructed the adjustment is still adhered to; and, moreover, that it is now brought into connection with the distinct and

irrelative case of the orders in council. The instructions which had been given to our ministers at London with a view to facilitate, if necessary, the reparation claimed by the United States, are included in the documents communicated.

Our relations with the other powers of Europe have undergone no material changes since your last session. The important negotiations with Spain, which had been alternately suspended and resumed, necessarily experience a pause under the extraordinary and interesting crisis which distinguished her internal situation.

With the Barbary powers we continue in harmony, with the exception of an unjustifiable proceeding of the dey of Algiers toward our consul to that regency. Its character and circumstances are now laid before you, and will enable you to decide how far it may, either now or hereafter, call for any measures not within the limits of the executive authority.

With our Indian neighbors the public peace has been steadily maintained. Some instances of individual wrong have, as at other times, taken place, but in nowise implicating the will of the nation. Beyond the Mississippi, the Iowas, the Sacs, and the Alabamas, have delivered up for trial and punishment individuals from among themselves accused of murdering citizens of the United States. On this side of the Mississippi, the Creeks are exerting themselves to arrest offenders of the same kind; and the Choctaws have manifested their readiness and desire

for amicable and just arrangements respecting depredations committed by disorderly persons of their tribe. And, generally, from a conviction that we consider them as part of ourselves, and cherish with sincerity their rights and interests, the attachment of the Indian tribes is gaining strength daily—is extending from the nearer to the more remote, and will amply requite us for the justice and friendship practised towards them. Husbandry and household manufacture are advancing among them, more rapidly with the southern than the northern tribes, from circumstances of soil and climate; and one of the two great divisions of the Cherokee nation have now under consideration to solicit the citizenship of the United States, and to be identified with us in laws and government, in such progressive manner as we shall think best.

In consequence of the appropriations of the last session of Congress for the security of our seaport towns and harbors, such works of defence have been erected as seemed to be called for by the situation of the several places, their relative importance, and the scale of expense indicated by the amount of the appropriation. These works will chiefly be finished in the course of the present season, except at New York and New Orleans, where most was to be done; and although a great proportion of the last appropriation has been expended on the former place, yet some further views will be submitted to Congress for rendering its security entirely

adequate against naval enterprise. A view of what has been done at the several places, and of what is proposed to be done, shall be communicated as soon as the several reports are received.

Of the gun-boats authorized by the act of December last, it has been thought necessary to build only one hundred and three in the present year. These, with those before possessed, are sufficient for the harbors and waters exposed, and the residue will require little time for their construction when it is deemed necessary.

Under the act of the last session for raising an additional military force, so many officers were immediately appointed as were necessary for carrying on the business of recruiting, and in proportion as it advanced, others have been added. We have reason to believe their success has been satisfactory, although such returns have not yet been received as enable me to present to you a statement of the numbers engaged.

I have not thought it necessary in the course of the last season to call for any general detachments of militia or volunteers under the law passed for that purpose. For the ensuing season, however, they will require to be in readiness should their services be wanted. Some small and special detachments have been necessary to maintain the laws of embargo on that portion of our northern frontier which offered peculiar facilities for evasion, but these were replaced as soon as it could be done by bodies of new recruits.

By the aid of these, and of the armed vessels called into actual service in other quarters, the spirit of disobedience and abuse which manifested itself early, and with sensible effect while we were unprepared to meet it, has been considerably repressed.

Considering the extraordinary character of the times in which we live, our attention should unremittingly be fixed on the safety of our country. For a people who are free, and who mean to remain so, a well-organized and armed militia is their best security. It is, therefore, incumbent on us, at every meeting, to revise the condition of the militia, and to ask ourselves if it is prepared to repel a powerful enemy at every point of our territories exposed to invasion. Some of the States have paid a laudable attention to this object; but every degree of neglect is to be found among others. Congress alone have power to produce a uniform state of preparation in this great organ of defence; the interests which they so deeply feel in their own and their country's security will present this as among the most important objects of their deliberation.

Under the acts of March 11th and April 23d, respecting arms, the difficulty of procuring them from abroad, during the present situation and dispositions of Europe, induced us to direct our whole efforts to the means of internal supply. The public factories have, therefore, been enlarged, additional machineries erected, and in proportion as artificers can be found or formed, their effect, already more

than doubled, may be increased so as to keep pace with the yearly increase of the militia. The annual sums appropriated by the latter act, have been directed to the encouragement of private factories of arms, and contracts have been entered into with individual undertakers to nearly the amount of the first year's appropriation.

The suspension of our foreign commerce, produced by the injustice of the belligerent powers, and the consequent losses and sacrifices of our citizens, are subjects of just concern. The situation into which we have thus been forced, has impelled us to apply a portion of our industry and capital to internal manufactures and improvements. The extent of this conversion is daily increasing, and little doubt remains that the establishments formed and forming will—under the auspices of cheaper materials and subsistence, the freedom of labor from taxation with us, and of protecting duties and prohibitions—become permanent. The commerce with the Indians, too, within our own boundaries, is likely to receive abundant aliment from the same internal source, and will secure to them peace and the progress of civilization, undisturbed by practices hostile to both.

The accounts of the receipts and expenditures during the year ending on the 30th day of September last, being not yet made up, a correct statement will hereafter be transmitted from the Treasury. In the meantime, it is ascertained that the receipts have

amounted to near eighteen millions of dollars, which, with the eight millions and a half in the treasury at the beginning of the year, have enabled us, after meeting the current demands and interest incurred, to pay two millions three hundred thousand dollars of the principal of our funded debt, and left us in the treasury, on that day, near fourteen millions of dollars. Of these, five millions three hundred and fifty thousand dollars will be necessary to pay what will be due on the first day of January next, which will complete the reimbursement of the eight per cent. stock. These payments, with those made in the six years and a half preceding, will have extinguished thirty-three millions five hundred and eighty thousand dollars of the principal of the funded debt, being the whole which could be paid or purchased within the limits of the law and our contracts; and the amount of principal thus discharged will have liberated the revenue from about two millions of dollars of interest, and added that sum annually to the disposable surplus. The probable accumulation of the surpluses of revenue beyond what can be applied to the payment of the public debt, whenever the freedom and safety of our commerce shall be restored, merits the consideration of Congress. Shall it lie unproductive in the public vaults? Shall the revenue be reduced? Or shall it rather be appropriated to the improvements of roads, canals, rivers, education, and other great foundations of prosperity and union, under the powers which Congress may already

possess, or such amendment of the constitution as may be approved by the States? While uncertain of the course of things, the time may be advantageously employed in obtaining the powers necessary for a system of improvement, should that be thought best.

Availing myself of this the last occasion which will occur of addressing the two houses of the legislature at their meeting, I cannot omit the expression of my sincere gratitude for the repeated proofs of confidence manifested to me by themselves and their predecessors since my call to the administration, and the many indulgences experienced at their hands. The same grateful acknowledgments are due to my fellow citizens generally, whose support has been my great encouragement under all embarrassments. In the transaction of their business I cannot have escaped error. It is incident to our imperfect nature. But I may say with truth, my errors have been of the understanding, not of intention; and that the advancement of their rights and interests has been the constant motive for every measure. On these considerations I solicit their indulgence. Looking forward with anxiety to their future destinies, I trust that, in their steady character unshaken by difficulties, in their love of liberty, obedience to law, and support of the public authorities, I see a sure guaranty of the permanence of our republic; and retiring from the charge of their affairs, I carry with me the consolation of a firm persuasion that Heaven

has in store for our beloved country long ages to come of prosperity and happiness.

SPECIAL MESSAGE.—DECEMBER 30, 1808.

To the Senate and House of Representatives of the United States:—

I lay before the legislature a letter from Governor Claiborne, on the subject of a small tribe of Alabama Indians, on the western side of the Mississippi, consisting of about a dozen families. Like other erratic tribes in that country, it is understood that they have hitherto moved from place to place, according to their convenience, without appropriating to themselves exclusively any particular territory. But having now become habituated to some of the occupations of civilized life, they wish for a fixed residence. I suppose it will be the interest of the United States to encourage the wandering tribes of that country to reduce themselves to fixed habitations, whenever they are so disposed. The establishment of towns, and growing attachment to them, will furnish, in some degree, pledges of their peaceable and friendly conduct. The case of this particular tribe is now submitted to the consideration of Congress.

SPECIAL MESSAGE.—JANUARY 6, 1809.

To the Senate and House of Representatives of the United States:—

I now lay before Congress a statement of the works of defence which it has been thought necessary to provide in the first instance, for the security of our seaports, towns, and harbors, and of the progress toward their completion; their extent has been adapted to the scale of the appropriation, and to the circumstances of the several places.

The works undertaken at New York are calculated to annoy and endanger any naval force which shall enter the harbor, and, still more, one which should attempt to lie before the city. To prevent altogether the entrance of large vessels, a line of blocks across the harbor has been contemplated, and would, as is believed, with the auxiliary means already provided, render that city safe against naval enterprise. The expense, as well as the importance of the work, renders it a subject proper for the special consideration of Congress.

At New Orleans, two separate systems of defence are necessary; the one for the river, the other for the lake, which, at present, can give no aid to one another. The canal now leading from the lake, if continued into the river, would enable the armed vessels in both stations to unite, and to meet in conjunction an attack from either side; half the aggregate force would then have the same effect as the whole; or the

same force double the effect of what either can have. It would also enable the vessels stationed in the lake, when attacked by superior force, to retire to a safer position in the river. The same considerations of expense and importance render this also a question for the special decision of Congress.

APPENDIX.

CONFIDENTIAL MESSAGE RECOMMENDING A WESTERN EXPLORING EXPEDITION.—JANUARY 18, 1803.

Gentlemen of the Senate and of the House of Representatives:—

As the continuance of the act for establishing trading-houses with the Indian tribes, will be under the consideration of the legislature at its present session, I think it my duty to communicate the views which have guided me in the execution of that act, in order that you may decide on the policy of continuing it, in the present or any other form, or discontinue it altogether, if that shall, on the whole, seem most for the public good.

The Indian tribes residing within the limits of the United States, have, for a considerable time, been growing more and more uneasy at the constant diminution of the territory they occupy, although effected by their own voluntary sales; and the policy has long been gaining strength with them, of refusing absolutely all further sale, on any conditions; insomuch that, at this time, it hazards their friendship, and excites dangerous jealousies and perturbations in their minds to make any overture for the purchase of the smallest portions of their land. A very few

tribes only are not yet obstinately in these dispositions. In order peaceably to counteract this policy of theirs, and to provide an extension of territory which the rapid increase of our numbers will call for, two measures are deemed expedient. First: to encourage them to abandon hunting, to apply to the raising stock, to agriculture and domestic manufactures, and thereby prove to themselves that less land and labor will maintain them in this, better than in their former mode of living. The extensive forests necessary in the hunting life will then become useless, and they will see advantage in exchanging them for the means of improving their farms and of increasing their domestic comforts. Secondly: to multiply trading-houses among them, and place within their reach those things which will contribute more to their domestic comfort than the possession of extensive but uncultivated wilds. Experience and reflection will develop to them the wisdom of exchanging what they can spare and we want, for what we can spare and they want. In leading them thus to agriculture, to manufactures, and civilization; in bringing together their and our settlements, and in preparing them ultimately to participate in the benefits of our government, I trust and believe we are acting for their greatest good. At these trading-houses we have pursued the principles of the act of Congress, which directs that the commerce shall be carried on liberally, and requires only that the capital stock shall not be diminished. We consequently under-

sell private traders, foreign and domestic; drive them from the competition; and thus, with the good will of the Indians, rid ourselves of a description of men who are constantly endeavoring to excite in the Indian mind suspicions, fears, and irritations toward us. A letter now enclosed, shows the effect of our competition on the operations of the traders, while the Indians, perceiving the advantage of purchasing from us, are soliciting generally our establishment of trading houses among them. In one quarter this is particularly interesting. The legislature, reflecting on the late occurrences on the Mississippi, must be sensible how desirable it is to possess a respectable breadth of country on that river, from our southern limit to the Illinois at least, so that we may present as firm a front on that as on our eastern border. We possess what is below the Yazoo, and can probably acquire a certain breadth from the Illinois and Wabash to the Ohio; but between the Ohio and Yazoo, the country all belongs to the Chickasaws, the most friendly tribe within our limits, but the most decided against the alienation of lands. The portion of their country most important for us is exactly that which they do not inhabit. Their settlements are not on the Mississippi, but in the interior country. They have lately shown a desire to become agricultural, and this leads to the desire of buying implements and comforts. In the strengthening and gratifying of these wants, I see the only prospect of planting on the Mississippi itself, the means of its

own safety. Duty has required me to submit these views to the judgment of the legislature; but as their disclosure might embarrass and defeat their effect, they are committed to the special confidence of the two houses.

While the extension of the public commerce among the Indian tribes, may deprive of that source of profit such of our citizens as are engaged in it, it might be worthy the attention of Congress, in their care of individual as well as of the general interest, to point in another direction the enterprise of these citizens, as profitably for themselves, and more usefully for the public. The river Missouri, and the Indians inhabiting it, are not as well known as is rendered desirable by their connection with the Mississippi, and consequently with us. It is, however, understood, that the country on that river is inhabited by numerous tribes, who furnish great supplies of furs and peltry to the trade of another nation, carried on in a high latitude, through an infinite number of portages and lakes, shut up by ice through a long season. The commerce on that line could bear no competition with that of the Missouri, traversing a moderate climate, offering, according to the best accounts, a continued navigation from its source, and possibly with a single portage, from the western ocean, and finding to the Atlantic a choice of channels through the Illinois or Wabash, the lakes and Hudson, through the Ohio and Susquehanna, or Potomac or James rivers, and through the Tennessee

and Savannah rivers. An intelligent officer, with ten or twelve chosen men, fit for the enterprise, and willing to undertake it, taken from our posts, where they may be spared without inconvenience, might explore the whole line, even to the western ocean; have conferences with the natives on the subject of commercial intercourse; get admission among them for our traders, as others are admitted; agree on convenient deposits for an interchange of articles; and return with the information acquired, in the course of two summers. Their arms and accoutrements, some instruments of observation, and light and cheap presents for the Indians, would be all the apparatus they could carry, and with an expectation of a soldier's portion of land on their return, would constitute the whole expense. Their pay would be going on, whether here or there. While other civilized nations have encountered great expense to enlarge the boundaries of knowledge, by undertaking voyages of discovery, and for other literary purposes, in various parts and directions, our nation seems to owe to the same object, as well as to its own interests, to explore this, the only line of easy communication across the continent, and so directly traversing our own part of it. The interests of commerce place the principal object within the constitutional powers and care of Congress, and that it should incidentally advance the geographical knowledge of our own continent, can not but be an additional gratification. The nation claiming the territory, regarding this as

a literary pursuit, which it is in the habit of permitting within its own dominions, would not be disposed to view it with jealousy, even if the expiring state of its interests there did not render it a matter of indifference. The appropriation of two thousand five hundred dollars, "for the purpose of extending the external commerce of the United States," while understood and considered by the executive as giving the legislative sanction, would cover the undertaking from notice, and prevent the obstructions which interested individuals might otherwise previously prepare in its way.

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